Time admits (finally) it was wrong about Reagan — *Si Frumkin's Journal* 27

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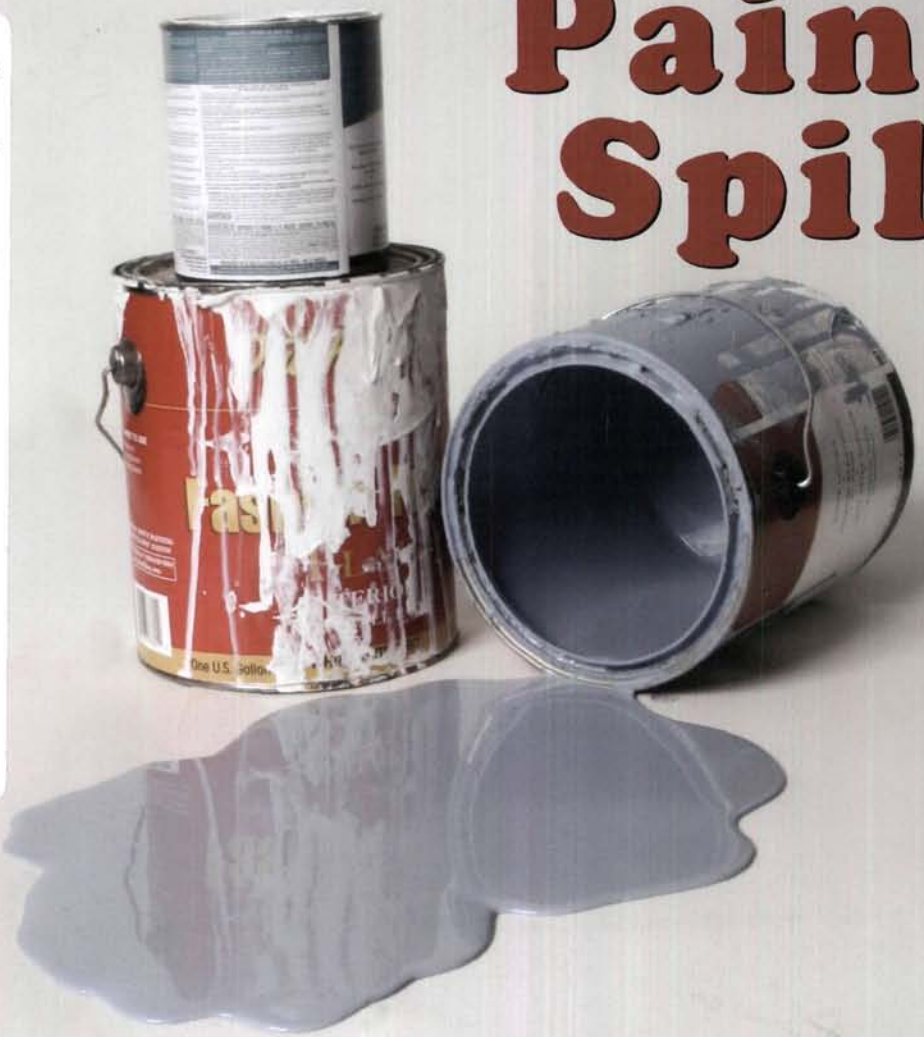
A Little Traveling Music
Janice Rogers Brown reminds graduates: It takes courage to be free 19

Why Marriage?
Rediscovering our most essential institution
Kathleen O'Connell-Sundaram 29

Sinclair Paint Spill



The weasel word 'fee' (replacing 'tax') oozes through the budget.

by Ray Haynes 14

Ron Keeva Unz
555 Bryant St #371
Palo Alto, CA 94301

All defense, all the time ...
... won't save threatened economy
James W. Robinson 7

Losing to the Internet
Newspapers imploding
George Neumayr 9

Gone to Earth
G.B. Tennyson Farewell
Zepeda, Saracino, Kurzweil 29

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An Opening for Common Sense

"The beginning of political wisdom is the recognition that liberalism is at the end of its intellectual tether."
— Irving Kristol

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REVIEW

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FEATURES

COVER ARTICLE: Sinclair Paint Spill By Ray Haynes 14
Bureaucrats dodge Prop. 13 as the weasel word 'fee' (replacing 'tax') oozes through the budget.

A little traveling music By Janice Rogers Brown 19
A Commencement Address: 'You will not succeed if you allow your minds to be defeated by the feckless, photo-op consumerism and promiscuous relativism of the cult of collectivity. It takes courage to be free.'

Why Marriage? By Kathleen O'Connell-Sundaram 24
'Feminism' banished family in an angry fixation on 'injustice.' Now many women are rediscovering humanity's most essential institution.

To be a Saint in America Si Frumkin's Journal 27
It's taken Time 18 years to admit how wrong it was about Ronald Reagan.

Gone to Earth G.B. Tennyson Farewell — Andrew Zepeda, William E. Saracino, John Kurzweil 29
Nothing that was worthy in the past departs; no truth or goodness ever realized by man ever dies, or can die.

Cover photograph by Gordon M. Kurzweil

DEPARTMENTS

Correspondence 2
Sacramento Spectator 3
The Working Press By George Neumayr 4
The Front Line Teapot tempest on CRP staffing 5
Facts on Gun Control By Sam Paredes 6
Business Trends By James W. Robinson 7
The Law By James S. Burling 10
The Good Guys By Gregory Sanford 12
Requiem for a Fraulein By G.B. Tennyson 32
First Things The face of evil, by John Kurzweil 36

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CORRESPONDENCE

Disenchanted in L.A.

I was a subscriber to your publication for some 15 years. I have enjoyed it for much of that time. However, recently I have become more and more disenchanted with your reluctance to criticize Bush and Schwarzenegger or to discuss illegal immigration. Therefore, I will not renew.

Larry Edgar
Los Angeles

CPR Editor John Kurzweil responds:

It is of course any reader's call whether or not to subscribe to this publication for any reason, but I can't help noticing a certain disconnect between Mr. Edgar's specified reasons and his decision not to renew. First, as to Schwarzenegger: more than four years ago, in our Jan./Feb. *2003* issue, I characterized our current governor as "a candidate ... with no solid ideas about the political direction the state should follow," the sort, I added, who "is in danger of reacting to political pressure like a weather vane in a strong wind." In that year's Sept./Oct. issue (published shortly before the recall), in the course of urging a vote for Tom McClintock to replace Gray Davis, I wrote that "the Schwarzenegger candidacy .... serves the national interests of the White House and east-coast Republicans .... the interests of members of former Governor Wilson's administration surviving in the political wilderness since Davis took office .... And it serves liberal Republicans who, as a minor faction within the state Party, require liberal Republican champions at the top to make them a force in state politics. But *it does not serve California's people*, and, by failing to do that, it ultimately guarantees failure for Republican political fortunes in California, certainly in the long run, if not right away." *(emphasis added)*

Since those early Schwarzenegger days, *CPR* has consistently followed the same editorial policy we follow for any public figure: criticize when we disagree, give credit when we believe it is due. It is true that other voices in *CPR*, particularly that of my colleague William E. Saracino, have at times supported the governor, but times change. In the just-published May/June 2007 *CPR*, Mr. Saracino wrote that the governor is today "a California version of John McCain 2000: a politico desperate to escape past conservative positions, rushing to be the oh-so-moderate Republican the media loves. Like McCain before him, Schwarzenegger shamelessly panders to the press, abandoning his Party's principles, bashing its office holders. The 'impartial' media fawn over his 'post-partisan' fantasy world where 'working together' means enacting 90 to 95 percent of the liberal legislative agenda," and concluding that "the governor is largely irrelevant to conservatism's future." So much for "reluctance to criticize ... Schwarzenegger."

As to the president, this publication's purpose is to cover the state, not the nation, but, when we *do* go beyond state issues, no reluctance such as Mr. Edgar complains of is to be found: "President Bush seems intent on alienating what little is left of his GOP base," wrote Mr. Saracino June 13 in his *CPR Online* column, "Immigration losers." "He [Saracino continued] and his spokesmen went out of their way to

(Please turn to page 11)

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SACRAMENTO SPECTATOR

The two big items setting tongues abuzz in Sacramento (the state budget and the Bush/Kennedy/McCain immigration bill in D.C.) could be decided by the time you read this. Both matters impact Governor Arnold Schwarzenegger: the budget directly; immigration more tangentially (but perhaps with more importance for his political future).

The governor's initial budget projections leaned heavily on that charming lass, extremely popular around Sacramento: Miss Rosey Scenario. Rosey delivered at least a little for the governor in the form of higher than expected tax revenues in April and May. But shortly thereafter, she fled to parts unknown, leaving a still-multi-billion dollar shortfall and band-aids on longterm spending problems that grow worse each year.

The Democrats, of course, want higher taxes to cover the higher spending that they (and, to be truthful, the governor) are demanding. Schwarzenegger, having seen his fingers singed for pretending his health-insurance tax hikes are actually "fees," is unlikely to support a outright tax increase. This puts legislative Republicans in the catbird seat. If they present a united front to both the Democrats and the governor, they can impact mightily the shape of the next budget — interesting times for GOP Leaders Dick Ackerman and Mike Villines.

Whatever sordid details the spending plan finally contains, you'd think people, at some point, will notice an overall trend. Always substantially higher then the previous year, the governor's budgets have essentially no fiscal or spending reforms, and "solve" serious, long-term problems by papering over rather than dealing with them. This Emperor of Fiscal Restraint may not yet be quite completely without clothes, but he's down to his old weight lifters' posing thong. Eventually somebody's going to notice.

During the national dust-up on the Immigration bill's first go-round in D.C., the governor managed to insult his Party's rank and file, stating that it was "the far left and far right" that defeated it. When some of the bill's truly odious provisions received national press, and surveys then began showing 70 to 80 percent national GOP opposition to the bill, the governor quickly got religion — or perhaps cold feet.

Whatever happened, the governor took great pains to move to the right side of 80 percent of his Party. He announced that the bill withdrawn in the Senate (in support of which he'd made his "far right ... far left" comment) was, it turned out, so flawed that even *he* couldn't have voted for it "in its current state." So far no reporters I know of have asked him to reconcile these contradictory statements.

He also went before an Hispanic broadcasters convention and uttered a simple truth: that the best way to learn English is to watch television and listen to radio in ... *mirabile dictu* ... English! This elicited groans and a smattering of boos, a reaction 100 percent predictable. So predictable, in fact, that, were I a cynical type, I'd say the governor expected it, delivering the line in order to be seen taking a "tough" position on the issue — all as a removing-foot-from-mouth exercise necessitated by his "far right, far left" comment.

Sigh ... the contortions your politicians daily endure are enough to drive your *Spectator* to drink. So keep an eye on the budget and the immigration bill. They will continue to reverberate in Sacramento even if both are declared "solved" by the time you read this. Now, where's my sidecar? ... and I don't mean an automotive device.

— A.P.C.

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The Working Press

Newspapers losing the war to the Internet

Massive workforce 'downsizing,' even 'outsourcing,' seen in wake of communications revolution.

GEORGE NEUMAYR

SCRAMBLING TO compete with the Internet, newspapers up and down California continue to cashier reporters and editors. The *San Francisco Chronicle* is reportedly hemorrhaging a million dollars a week. This has forced it to cut a quarter of its workforce. "This sucks, there is no question about it," says editor Phil Bronstein. Meanwhile, the *Los Angeles Times* proceeds with its "voluntary and involuntary employee separation program," in the words of editor James O'Shea. In late May 57 *Times* staffers departed.

Google executive Marissa Mayer, addressing a journalism conference in the Bay Area in May, said: "We are computer scientists, not journalists." But it doesn't matter; the computer scientists are winning. By simply regurgitating news items other "content providers" cobble together and then disseminating them online, Google (along with other Internet companies) are running circles around reporter-staffed outlets, reaping advertising profits without having to hire a single journalist.

Under these pressures, publishers are searching for the cheapest labor possible. Is it conceivable that the "outsourcing" trends seen in other professions will begin to appear in journalism? According to the *Los Angeles Times*, James Macpherson, publisher of the *Pasadena Now* website, is pursuing that improbable strategy already: he is "outsourcing" reporting jobs to India. He hired one reporter from Mumbai and another from Bangalore. They will be "covering" the Pasadena City Council. One will earn $12,000 a year; the other will earn $7,200.

How can they cover Pasadena from India? "The council broadcasts its meetings on the Web. From nearly 9,000 miles away, the outsourced journalists plan to watch, then write their stories while their boss sleeps — India is 12.5 hours ahead of Pacific Standard Time," reports the *Times*. "A lot of the routine stuff we do can be done by really talented people in another time zone at much lower wages," Macpherson blithely told the paper.

He advertised the jobs on the "Indian version of Craigslist," and he will "add some local flavor by doing interviews, then e-mailing the recordings to India," says the paper.

Perhaps it is not surprising that Macpherson found interested applicants in India. While newspapers wither away in America, they are booming in India, a country of 1.1 billion people, hundreds of millions of whom are literate. "From 2005 to 2006, nearly 2,100 newspapers made their debut in India, joining 60,000 already circulating," reports the *Times*. Ironically, India, known for its high-tech contribution to America, has a strong newspaper-reading culture in part because few people have Internet access.

* * *

LOS ANGELES TIMES media columnist Tim Rutten frequently pontificates on what constitutes journalistic balance though he rarely observes it himself. By balanced journalism, Rutten means journalism that advances the tenets of his brand of liberalism. He confirmed as much in an appearance before students from California State University at Northridge in May. Speaking at a media forum, he urged the students to embrace "radical journalism," according to the CSUN student newspaper, *The Daily Sundial.*

In other words, "radical journalism" and balanced

George Neumayr is California Political Review's *press critic.*

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THE FRONT LINE

Teapot tempest on CRP staffing

Some activists voiced concern over California Republican Party Chairman Ron Nehring's hiring of two non-citizens for key state Party posts: Australian Michael Kamburowski, the state GOP's chief operations officer, and Canadian Christopher Matthews as state deputy political director. The activists, fearing a PR hit, cite a mid-June *San Francisco Chronicle* story on the hires portraying them as a slap at the state and nation.

The "California Republican Party has decided no American is qualified to take one of its most crucial positions," begins the newspaper's "news" story, displaying its anti-GOP bias a bit obviously even for the *Chron*. Reporter Carla Marinucci lavishly quotes former state GOP Party spokeswoman Karen Hanretty lamenting the "insulting" and "embarrassing" decision "to bring people from the outside who don't know the difference between Lodi and Lancaster."

This tempest-in-a-teapot, if it is even that, begins with the glib premise that such hires are made the way an NFL team, say, sifts through hundreds of coaching candidates searching for the best available man. Anyone at all familiar with internal Party staffing knows that the woods are thick with highly qualified candidates for each job and that the hiring decision, given largely comparable levels of expertise, depends heavily on such factors as personal loyalty to, and a record of working well with, the official doing the hiring and the political program to be deployed.

This is politics, Ms. Marinucci, a world whose culture the *Chron* reporter, it seems, is still getting to know. Or perhaps it's just that the *Chronicle* has decided no unbiased reporter is qualified to cover politics in its news pages.

Senator Tom McClintock's Citizens for the California Republic (*www.CARepublic.com*), has largely removed the threat of tax increases from this year's budget negotiations. Last April, McClintock, backed up by CFCR's grass roots muscle, secured 15 senator and 31 Assembly member signatures on contracts with their constituents not to raise taxes – more than enough to stop a two-thirds vote. Since then, McClintock has used organization and new technology to educate voters about issues and help them get to know other GOP leaders.

A recent Tele-Town Hall conference call with Congressman Duncan Hunter helped mobilize opposition to the Kennedy-McCain-Bush immigration bill. McClintock, yet to endorse a GOP presidential candidate, has been approached for support or assistance by campaign representatives from Tom Tancredo, Ron Paul, Jim Gilmore, John McCain, Fred Thompson, and Duncan Hunter.

Hunter spent an hour with tens of thousands of McClintock's CFCR members immediately following the New Hampshire candidates' debate. McClintock complimented Hunter for arguing during the debate that "it's time Republican leaders stopped listening to the Kennedy wing of the party" — possibly a reference to John McCain's public consultation with Democrat Ted Kennedy before voting on key immigration bill amendments.

More than 52,000 calls were placed during the hour. (Hear the entire call at CFCR online, which now provides podcasts.) 21,000 citizen activists joined the conference call during the hour, with between 2,000 and 4,000 on the line at any one time. It required only a few seconds to generate 2,300 names on the protest petition opposing the immigration bill. This is a powerful, new grassroots weapon.

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journalism are one and the same. He defines "radical journalism" as muckraking with a "critical mind set in the service of humane values." And who is his great exemplar of this? Rutten fondly recalled "Izzy" with whom he once worked, according to the paper's account. "Izzy" was the notorious leftist pamphleteer, I.F. Stone.

STONE WAS a propagandist and "fellow traveler" so far to the left the Soviets considered approaching him to become an agent of influence. And this is Rutten's idea of an icon of journalistic fairness. This explains the near-constant socialist invective in his columns. Cover up his byline and readers might think they were reading a chapter from *Das Kapital.* He never fails to describe businessmen as unfathomably evil creatures, driven wholly by greed. Here's his balanced take on Rupert Murdoch, for example: "That brings us to Murdoch's baleful and equally demonstrable influence on American journalism, since heaving his rapacious carcass onto our shores as a full-time resident."

Next time Rutten offers up a windy pronouncement on who is and who is not balanced enough to appear on TV or in the media, just keep in mind that his benchmark is I.F. Stone.

* * *

As I've noted in the past, the *Los Angeles Times'* commitment to politically correct hiring policies extends to its Sports section, where it actively seeks female sports writers. It awaits that glorious day when half the sports-writing staff is composed of females. The cause of course for this terrible disparity is not that women aren't as interested in sports as men; it is the "glass ceiling."

But it turns out that one of its staffers is able to help out in its quest for an egalitarian Sports page. Staffer Mike Penner announced in April that he was switching

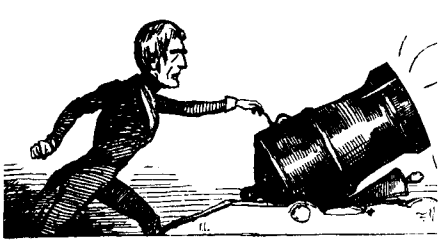
WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

Term limits guarantee that new knuckleheads replace most termed-out knuckleheads. Last year the forces of freedom were able to defeat every effort to chip away (further) at our Second Amendment rights in California. Working hard in the Legislature to defeat measures to serial number bullets, micro-stamp firing pins, ban the use of lead ammo, prevent mail-order purchase of ammunition, and make law abiding citizens criminals if they do not report stolen or lost firearms. With strong help from Governor Arnold Schwarzenegger's veto pen, every one of these harassment measures was defeated. It hasn't happened in a long time; it happened in 2006.

But term limits means we always get a new tomorrow, even when it turns out to be yesterday all over again. This year we had 34 new, fresh, wide-eyed rookies. That's 34 nubies with no historical (although *with* some hysterical) knowledge of the Legislature — 34 waiting-to-happen vindications of Santayana ("Those who cannot remember the past are condemned to repeat it"). They make easy pickin's for the forces of evil.

Sure enough, every anti-gun bill defeated last year has been reintroduced (most by rookies) with virtually the exact same language as before. But we remember last year's lessons. They give us an advantage as we fight the good fight all over again.



Some people see an advantage in term limits in this regard, but I disagree. Politicians dislike pain and they don't like losing. The gun-grabbing sponsors recruited nubies to reintroduce most of their bills because they had to. Most of the once-burned veterans (and those others who only saw their former colleagues getting burned) are twice-shy about re-living those defeats themselves. The rookies? The rookies don't know any better, and the ideological P.T. Barnum's ready to use them for cannon fodder are in only too ample supply.

So defenders of freedom must once again battle to recover ground already won. What a waste.

Sam Paredes is executive director of Gun Owners of California.

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"genders" and would henceforth be calling himself "Christine."

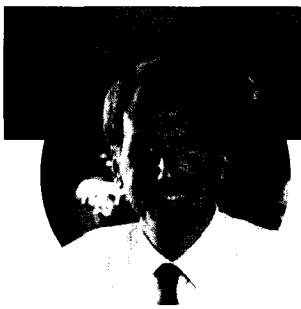
"During my 23 years with *The Times*' sports department, I have held a wide variety of roles and titles. Tennis writer. Angels beat reporter. Olympics writer. Essayist. Sports media critic. NFL columnist. Recent keeper of the Morning Briefing flame," he wrote in an essay that appeared in the Sports section. "Today I leave for a few weeks' vacation, and when I return, I will come back in yet another incarnation. As Christine."

Now Christine Daniels, Penner said that "I am a transsexual sportswriter." He thanked his colleagues and boss for their understanding: "When I told my boss Randy Harvey, he leaned back in his chair, looked through his office window to scan the newsroom and mused, 'Well, no one can ever say we don't have diversity on this staff.'"

His barber, however, is perplexed: "When I told Robert, the soccer-loving lad from Wales who cuts my hair, why I wanted to start growing my hair out, he had to take a seat, blink hard a few times and ask, 'Does this mean you don't like football anymore, Mike?' No, I had to assure him, I still love soccer. I will continue to watch it. I hope to continue to coach it."

Penner-turner-Daniels's essay of explanation generated considerable reader interest, "becoming one of the most heavily viewed stories on *latimes.com* in the last year, with about half a million page views," said the paper, which, maximizing the number of PC points it could rack up, proudly announced that it expects its transsexual sportswriter to be with the paper for "many" years to come. Imagine the gallows humor this episode must have triggered amongst sacked staffers.

Meanwhile, the *Sacramento Bee's* Sports page found itself in a controversy for deviating from politically correct expectations. In May, the paper abjectly apologized for using "shucked and jived" in a boxing story about Floyd Mayweather Jr. The ombudsman for the paper pronounced the phrase "offensive." CPR



Business Trends

Governor's veto pen slows job-killing juggernaut

But all defense, all the time, does not address key threats to the economy, such as AB 32.

JAMES W. ROBINSON

For a brief moment, it seemed like the old Arnold Schwarzenegger was back — the reform-minded Milton Friedman acolyte who won an historic recall election decrying the chronic deficits, tax increases, and regulations that had been driving businesses and jobs out of California.

Speaking to the state Chamber of Commerce in May, Governor Schwarzenegger praised the business group for compiling its annual list of "job-killing" bills. "This is the greatest service for the people of California." he said, just before reprising some famous lines one more time:

"You know my opinion about job-killing bills. I mean, that's what we have done for three years, is we said, 'Hasta la vista, baby,' to those bills. Exactly. And that's what we're going to do the next four years, terminate those bills."

It is appropriate, accurate, and politically astute for the governor to remind the business community how bad things could be were he not guarding the gate with his veto pen in hand. There is simply no limit to what the current legislative majority in Sacramento would

James W. Robinson is a senior vice president at the U.S. Chamber of Commerce and former communications director for Gov. George Deukmejian and Attorney General Dan Lungren. The views expressed are his own.

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pass in the way of new taxes, spending, mandates, and regulations if it could have its own way.

THE PROBLEM is that vetoing bad bills, while meritorious, is a defensive approach that fails to address the major competitive challenges facing California's future. And, it pales in significance alongside a new era of government intrusion in the economy that is just around the corner.

Many long-term challenges will have to be addressed including fixing failing schools, reining in frivolous litigation, and upgrading a crumbling infrastructure. Governor Schwarzenegger has at least properly identified what needs to be done in these areas. Yet on fiscal, health care, and energy policies, decisions are being made that could, collectively, add crushing costs to doing business in California. Corporate planners are taking note.

STATE FINANCE

Let's look first at state finances. Earlier this month, the *New York Times* discovered that "more than 40 states have found themselves with more money than they planned as they wound down their regular sessions.

"Governors in 23 of those states proposed tax cuts, and a majority of states with surpluses chose to shore up their roads, schools, and rainy day funds," the newspaper reported.

California cannot be counted among them — not anymore. The era of easy money appears to be over. The Schwarzenegger administration issued a May revision to its proposed budget that readjusted revenues expectations downward by $243 million. Two weeks later, the revenue picture worsened further — to $764 million under projections.

Spending has continued its rapid growth. According to Sen. Tom McClintock, annual spending has expanded at a faster rate under the current governor (8.1 percent) than it did under Governor Gray Davis (7.1 percent). The structural budget deficit remains. The nonpartisan Legislative Analyst has estimated that the state will spend at least $3 billion more than it takes in during the 2007-2008 fiscal year and $5 billion more in the following year. Furthermore, expected changes in federal tax policy could significantly squeeze California's ability to generate future revenues — and you can thank Californian Nancy Pelosi and her congressional majority, in advance, for that.

The Bush tax cuts, which pulled the national econo-

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my out of its post-9/11 slump, are set to expire in 2010. If allowed to expire, the result would be the largest tax increase in the nation's history. Congressional Democrats might extend some politically appealing tax relief for lower-income Americans. But there is little chance they will renew the investment-oriented tax cuts (on dividends, capital gains, and upper-income taxpayers) which have produced surging revenues for state and federal tax coffers.

The impact on California could be severe, because over time, the state has foolishly narrowed its tax base — relying to an inordinate degree on those very same investors and upper income taxpayers. Yet as revenues shrink, businesses and wealthier taxpayers are likely to be targeted — again.

PENSION, HEALTH BENEFIT BILL DUE

California also has a huge bill coming due for its unmet public employee pension and health benefits. As reported recently in the *Los Angeles Times*, the state is on the hook for $48 billion in health care costs for government employee retirees and their families. Los Angeles County faces an additional $20 billion in obligations, and the Los Angeles Unified School District, another $10 billion. This is in addition to potentially tens of billions of dollars in unmet pension obligations.

Then there's health care. At a time when those 23 other governors cited by the *New York Times* are cutting taxes (and competing with California for jobs and businesses), Governor Schwarzenegger has proposed raising taxes $3.5 billion to pay for a new health care mandate. Not to be outdone, Democrats in the Legislature have passed a 7.5 percent-of-payroll mandate to fund its own health care plan. This added payroll tax would suggest only one thing to companies that are struggling in a tough, competitive environment: either cut your payroll or move it out of California.

AB 32: BUREAUCRATIC NIGHTMARE

When it comes to energy and the related issue of climate change, California and especially the governor are being lauded around the world for a purportedly enlightened approach. Yet California may be in the process of pricing itself right out of an affordable and reliable supply of fuel and electricity. The enactment of the AB 32 global warming bill establishes mandatory caps on the carbon dioxide emissions that many believe contribute to global warming. The law grants enormous power to unelected regulators at the Air Resources Board (ARB), whose minions are already preparing to fan out across the state to measures emissions, establish benchmarks, and compile databases on every energy generator or user in the state. Then individual caps and targets will be set. Then comes a whole new phase where there is more reporting, measuring, and accounting to see if the targets and goals are being met. Furthermore, if the ARB deems it wise, a cap-and-trade system will be devised that will carry with it its own phone-book size directory of rules and strictures. Pollution credits and offsets would be bought and sold in an Enron-style virtual marketplace, which — as the Europeans have learned — is highly prone to manipulation and fraud. With AB 32 and other restrictive policies, California seems to be doing everything possible to saddle in-state businesses and other consumers with the costliest, scarcest, and most unreliable supplies of fuel and power in the nation.

The unbridled expansion of state power over free markets in our nation's most populous state should concern all Americans. California is a state of enormous potential for innovation, entrepreneurship, and creative new ideas that generate economic opportunity and human progress. Ironically, Governor Schwarzenegger has articulated an appreciation for this potential with more spirit and passion than any leader we've had in a long time. And, he has done several things right, including "terminating" those job-killing bills.

But a vibrant, prosperous economy depends on more than a veto pen. The competitive challenges facing California must be addressed with positive action and a consistency of principle, anchored in the proven tenets of free enterprise.

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The Law

Housing socialism leads to housing shortages

Santa Monica goes to court in yet another attempt to overturn the laws of economics.

JAMES S. BURLING

The preliminary rounds of a legal battle occurred in early June in the courtroom of Los Angeles Superior Court Judge John A. Kronstadt. On June 6, the judge heard a citizens' challenge, argued by Pacific Legal Foundation attorneys, against the city of Santa Monica's so-called "Inclusionary Zoning" law. A PLF news release (at: http://www.pacificlegal.org/?mvcTask=pressReleases&id=786) describes the city's ordinance as forcing "builders of projects with four or more residential units to provide a specified number of 'affordable' residences for sale at below-market prices ...." PLF's attorneys argue that the law violates "the property protections of the state and federal constitutions."

This "Inclusionary Zoning" idea extends beyond Santa Monica's borders. The issue arose, for instance, in the 2005 L.A. mayoral race between James Hahn and Antonio Villaraigosa. The courts and attorneys will explore and decide the legal questions in this particular case. Underlying those, however, is the radical Santa Monica City Council's rationalization for its policy, arguing that it serves the overall economic interests of the people. Our legal correspondent here explores that argument, as well as the underlying legal issue.

— editor

In the strange political world of city council chambers across California and some other more befuddled parts of the nation, a belief in an alternative universe exists – where the laws of economics do not exist. In that universe, shortages created by government regulations can be eased only with more government regulations. And the skyrocketing cost of government regulation can be eased only with more costly government regulation.

This is the saga of "inclusionary zoning," a relic of the halcyon days where government officials could unabashedly worship at the altar of central planning. In the old days, of course, if the government discovered a shortage of something (such as low-income housing,) it would just decree more of that something to be made by the government. But times have changed. We've learned that such a course leads to failure. Planners today recognize that there is a role for the free market. They just haven't figured what the role is yet. So, today when planners recognize a shortage of something, they decree that more of that something should be made — by the free market.

A shortage of low-income housing exists in most parts of the country, a situation local governments often deplore, arguing that more such housing "must" be built. And, for some reason, it must also be new. Of course, no one likes the phrase "low-income" housing, so planners renamed it "affordable housing," making it more palatable to the middle class that ends up paying for it. More recently, planners, in a bow to the public's embrace of the value of something called "work," have renamed it yet again as "workforce housing." Perhaps "proletariat housing" will be next.

The problem with alleviating a shortage of new low-income housing is that someone has to build it. And since government has done such a lousy job building housing, taxpayers are reluctant to shovel more tax money for the construction of government housing projects. So what's a planner to do? The answer is so-called inclusionary zoning, an idea so loopy it almost makes rent control look like sound economics by comparison.

In a nutshell, "inclusionary zoning" says that, if a de-

Pacific Legal Foundation Attorney James S. Burling is supervising the Foundation's current legal challenge to the City of Santa Monica's inclusionary zoning policies.

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veloper builds 10 or so homes for sale at market rates, the builder must build one that is "affordable" to the "workforce" — or pay big bucks to the local housing commissariat for a subsidized housing fund.

So WHO picks up the tab for the subsidized housing? The planners behind this scheme either shrug and don't answer the question or suggest the builders will eat the costs. Certainly not the average families who make up the bulk of new home purchasers in this country. In inclusionary zoning jurisdictions, money *does* grow on trees.

The fly in the socialist soup, however, is the United States Constitution. The nation's Supreme Court has, on several occasions — first in a 1987 case brought by Pacific Legal Foundation (PLF) called *Nollan v. California Coastal Commission* — held that the Takings Clause prohibited government from demanding exactions from builders unless the exaction served to relieve some actual harm caused by the development. The problem for inclusionary zoning is that no serious economist will say that building homes and apartments for sale or rent at market rates creates a shortage of affordable housing. Quite the opposite. If planners were serious about letting the free market relieve the shortage of affordable housing, they would allow more housing to be built without burdening it with yet another tax that takes many thousands of dollars out of the pockets of the families struggling to afford a new home.

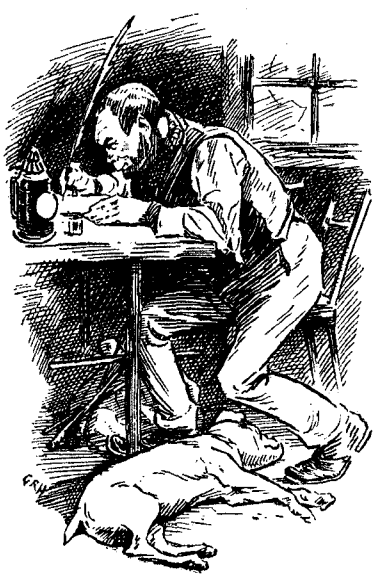
Last fall, while he was still mayor of Oakland, current California Attorney General Jerry Brown cast the deciding vote to kill an inclusionary zoning scheme in that city, saying it would drive developers and private investment away. In his words, "There is no Santa Claus." Right now PLF is litigating this issue in Santa Monica and more suits are on the way. I may never say this again in my lifetime: let us hope the courts agree with Jerry Brown. CPR

CORRESPONDENCE

(Continued from page 2)

insult anyone and everyone who opposed any portion of the bill. No concession of possible good will or honorable intentions was allowed for opponents of the bill. Dare to raise a question about convicted gang members being allowed to stay in the country? You were a 'bigot,' a 'hater,' and 'probably wanted the illegals killed' .... Shame on President Bush and his mouthpieces for such mean-spirited attacks against anyone with honest disagreement on any portion of this gargantuan (longer than the Bible) bill." The subject of the article was, of course, the Bush immigration bill, an item at the center of the final topic Mr. Edgar says we won't discuss.

It so happens that the immigration issue divides conservatives and Republicans and requires more careful, thoughtful handling than, in my opinion, it often receives. The tendency "to insult anyone and everyone ... opposed," or to accuse them of having lost either their principles or sanity or both, is not, unfortunately, limited to the president and his minions. *CPR* is preparing a major debate on this issue — perhaps a series of debates if that proves necessary to deal with the issue fully — from our perspective as a journal of California state (not national) politics.



Will such a discussion add anything of value for conservatives, Republicans, for all Californians? It will if the views are expressed, read, and considered with open minds rising above the temptation to dismiss or deride all disagreement — and with an understanding that we won't always agree in the end, but that loyalty to the cause of American freedom is our reason for participating in this political/journalistic enterprise, not an expectation that we will always see eye to eye on how to proceed to serve that cause. And the only time we really lose to the common enemy is when we succumb to the temptation to quit the fight. Whatever Mr. Edgar decides about reading *CPR*, I hope he will never give up the fight. CPR

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The Good Guys

From tradition to reason

Men without faith flee from the truth, or: Why does the left so fear Janice Rogers Brown?

GREGORY SANFORD

Former California state Senator H.L. "Bill" Richardson once suggested that the way to tell whether or not a conservative was actually accomplishing anything was to listen for screaming from the left: lots of it, good; silence, and you could pretty well conclude that the conservative was achieving little. Not, I'd say, a foolproof method, but certainly worth considering along with others, and if we employ the H.L. standard in choosing subjects for this column, it would be difficult to find anyone to beat U.S. Fourth Circuit Court of Appeals Judge Janice Rogers Brown. Brown, though born in Alabama, is a luminary California can claim for its own: she graduated from UCLA law school and taught law, worked as an attorney, was first named a judge, and rose to the level of state Supreme Court all here in California. And it was her work in California that put her in the national spotlight for President Bush to notice and elevate her to the nation's second most powerful federal bench (as well as onto the short list to fill a future U.S. Supreme Court vacancy).

Back to the Richardson standard: Judge Brown, through her brilliant writing, her courage, her thorough grasp of (and evident love for) the Western culture that has given us our freedom, her determination to succeed through hard work, and, what's more, her actual success at the highest levels in the wild world of politics and power — and to do it all while being *the* Democrats' symbol of absolute victimhood, a black woman and daughter of a sharecropper — it all quite simply reduces the barbarian left to screams of perfect apoplectic tonality.

For instance, Brown adopts the identical common sense skepticism about big government more or less unanimously held by America's founding fathers, and by almost all Americans at least until the New Deal. For this she is routinely labeled an "extremist" out to enslave the nation. Democrat Senate Leader Harry M. Reid, in opposing Brown's confirmation to the D.C. Circuit, gave what he evidently considered a fair assessment, saying she "has repeatedly assailed protections for the elderly, for workers, for the environment, and for victims of racial discrimination. If confirmed today, she will be newly empowered to destroy those protections."

This because she points out what anyone willing to open his eyes can see without difficulty: "Government," Brown said in an April 2000 speech to The Federalist Society at the University of Chicago Law School, "is the only enterprise in the world which expands in size when its failures increase. Aaron Wildavsky ... notes that the Madisonian world has gone 'topsy turvy' as factions, defined as groups 'activated by some common interest adverse to the rights of other citizens or to the permanent and aggregate interests of the community,' have been transformed into sectors of public policy. 'Indeed,' says Wildavsky, '*government now pays citizens* to organize, lawyers to sue, and politicians to run for office. Soon enough, if current trends continue, government will become self-contained, generating (apparently spontaneously) the forces to which it responds.'"

A little later in her remarkable speech, Brown vividly portrayed the present and future reality that has followed this transformation of American government. "At this moment," she said, "it seems likely leviathan will continue to lumber along, picking up ballast and momentum, crushing everything in its path. Some things are apparent. Where government moves in, community re-

Frequent CPR *contributor Gregory Sanford is a freelance writer living in Southern California. This column, inspired by the principle that evil triumphs if good men do nothing, endeavors to keep track of those good men and of what they are doing.*

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What will avail a people beset by such adversaries as these? Clear thinking, straight talking, courageous leaders. Judge Brown is just that.

treats, civil society disintegrates, and our ability to control our own destiny atrophies. The result is: families under siege; war in the streets; unapologetic expropriation of property; the precipitous decline of the rule of law; the rapid rise of corruption; the loss of civility and the triumph of deceit. The result is a debased, debauched culture which finds moral depravity entertaining and virtue contemptible."

What has any of this to do with Reid's complaint about "destroying rights"? The evidence demonstrating the truth of Brown's insight is plain to see:

• What are the massively powerful public employee unions dictating policy in Sacramento if not factions activated by a common interest adverse to the rights of other citizens and to the permanent and aggregate interests of the community?

• What is the Sheila Kuehl legislative agenda if not war against the family?

• What is the dysfunctional, increasingly hopeless existence of, say, inner city L.A. — fathers without families, mothers without husbands, children raised and taught by gangs instead of parents or schools — all of it punctuated every decade or so by a riot of self-lacerating destruction — what is this if not war in the streets?

• What is the daily activity of the Coastal Commission, the EPA, and the *Kelo* courts if not unapologetic expropriation of property and decline of the rule of law?

As for "a rapid rise of corruption, loss of civility, and the triumph of deceit," try the perjurious Clinton presidency pardoning criminals while turning the FBI and IRS into agencies of harassment and revenge against political opponents — and you can throw in (although to a markedly lesser degree) the dear departed Republican congress, last seen out-Democrating the Democrats in special interest pork barreling and pompous self-congratulation. And what of a governor who, having talked himself into office quoting Milton Friedman, opens the door through his Greenhouse Gas bill for potentially the most irresponsible, draconian bureaucracy in California's history let loose to suffocate the productive life of his state?

What will avail a people beset by such adversaries as these? We must have, above all, clear thinking, straight talking, courageous leaders neither taken in nor cowed by the lies of a corrupt establishment. Judge Brown is just that. She understands where we as a people have gone wrong and eloquently, yet simply, explains it:

> I want to suggest that the belief in and the impulse toward human perfection, at least in the political life of a nation, is an idea whose arc can be traced from the Enlightenment, through the Terror, to Marx and Engels, to the Revolutions of 1917 and 1937. The latter date marks the triumph of our own socialist revolution. All of these events were manifestations of a particularly skewed view of human nature and the nature of human reason. To the extent the Enlightenment sought to substitute the paradigm of reason for faith, custom or tradition, it failed to provide rational explanation of the significance of human life. It thus led, in a sort of ultimate irony, to the repudiation of reason and to a full-fledged flight from truth — what Revel describes as "an almost pathological indifference to the truth."

The left, too often with conservative acquiescence, continues to dodge responsibility for its consistent failure to deliver on its promises by recycling the old excuse that socialism is not at fault in itself; it just has not yet been implemented fully or properly. Janice Rogers Brown will have none of that. The left, she says, opposes faith on the ground of defending truth, then abandons truth as soon as faith is defeated; it opposes tradition and humanity's historic understanding of its own human nature on the ground that reason can transcend natural law, then abandons reason the moment tradition and understanding have been overthrown. Brown knows the problem inheres within leftism: its pride, its self-deception, its rebelliousness against reality itself. She knows that any form of leftism will always destroy, the sole cure being its absolute repudiation and the restoration of humility and respect for who we are and why we are alive.

Judge Brown is one of America's, and California's, Good Guys. Just listen to the left scream whenever her name crops up. CPR

See page 19, this issue of CPR, *to read Janice Rogers Brown's commencement address to Ave Marie School of Law delivered last month.* *— editor*

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Sinclair Paint Spill

The weasel word 'fee' (replacing 'tax') oozes through the budget.

by Ray Haynes

golf course in El Dorado Hills
erg is currently president and chief
mmerce, having held the Chamber's
t the time of that conversation, then-Assemblyman Tom
oduced bills — his in the Assembly, mine in the Senate — to repeal the car tax, a move we both believed would be popular with California taxpayers. Knowing that the likelihood of the Democrat-dominated Legislature repealing *any* tax was nil, McClintock had also filed an initiative to repeal it. We were looking for support for the initiative, and since I had a good relationship with Zaremberg, we decided I should talk to him.

To generate support from the business community, we had added a provision to overturn the California Supreme Court's 1997 *Sinclair Paint* decision *(see sidebar, facing page)*. Zaremberg was aware of the decision and aware of the initiative, but told me the Chamber would not participate in our initiative because a repeal of the car tax was too controversial, and would "guarantee that the public employee unions would oppose the repeal of the *Sinclair Paint* decision." I argued that the unions would oppose any initiative to overturn *Sinclair Paint* and that the only way business could counteract the union opposition was to attach *Sin-*

CPR *Editorial Board member Ray Haynes served in the California Legislature from 1992 to 2006.*

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clair repeal to a popular initiative, like repealing the car tax. He said his consultants disagreed, and that the unions would not oppose a simple *Sinclair Paint* repeal. Lack of funding kept the car tax initiative from making the ballot, while the Chamber put its money to work qualifying its own initiative to repeal *Sinclair*. It made the ballot and the unions spent $5 million telling the voters it was a tax break for wealthy corporations that wanted to pollute the air without paying for it. The initiative went down, 52 to 48 percent. In a story not exactly new, the shortsighted business community had walked away from a chance to lead a popular cause that would have benefited the state in general and business in particular.

The business community walked away from a chance to lead a popular cause that would have benefited the state in general and business in particular.

I tell this story not only to bash the political naiveté of the business community, a well documented fact, but to make the point of this article. State taxpayers are being crushed in *Sinclair Paint* fees. Early on, Governor Schwarzenegger promised not to raise taxes, and he hasn't. He, however, made no such promise with respect to fees, and the bureaucracy has taken advantage of that fact, along with the *Sinclair Paint* decision, to increase fees — and government — to the point that general fund taxes are financing a shrinking portion of government, and fee-funded bureaucracy is growing out of control.

It has always been a trick of bureaucracy in tough times to fund its positions and programs using the Special Funds' fee-based revenue. When income, sales, and property tax collections (the source of general fund revenue) fall,

Sinclair Paint Co. *v.* *State Board of Equalization*

Decided June 26, 1997

This decision permitted California state government to bypass Prop. 13's requirement that tax hikes receive a two-thirds vote of the Legislature. Some background: The Sinclair Paint Company had filed a lawsuit against the state, challenging a "fee" assessed on paint manufacturers for "child health programs." The theory was:

1) paint manufacturers in the past had made paint with lead;
2) lead paint made some children sick; so therefore
3) all paint manufacturers, even if they had never made paint with lead, should pay a fee to take care of all sick children.

This idea, happily for Democrats, eviscerated the Prop. 13 two-thirds vote rule. The bill passed by majority vote, became law, and Sinclair Paint sued saying the fee was really a tax, there being no direct connection between the program and the imposition of the fee. Since the bill passed without a two-thirds vote, Sinclair argued this was an illegal tax.

The California Supreme Court, in a *unanimous* opinion by Justice Ming Chin — in probably the most tortured reading of Prop. 13 yet devised by a devious judiciary — decided the tax was indeed a fee, since the relationship between children's health and lead-based paint sufficiently justified letting the government assess all paint manufacturers a fee to pay for all children's health. On a fair reading, the decision essentially allows the Legislature to pass *any* tax by majority vote, call it a fee, and then postulate any sort of connection between the payer of the tax and the purposes the tax money to be collected was intended to serve. CFR

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government bureaucracies don't spend less. They shift expenditures to special funds, using the fee-based revenue they generate. For example, suppose the Legislature votes funding for several new staff positions at state government agency ZZZ, mandating that the new staffers help shoulder an increasing work load of, say, inspecting elevators in office buildings around the state. The funding comes from increased fees paid by building owners and goes into the elevator inspection special fund. But the new inspectors, often, are not hired despite the new funding. Building owners pay a now higher yearly fee for inspections, but inspections continue to be made only once every two or four or six years due to a continuing state inspector shortage. In the meantime, the allocated funds are piling up in the special fund. Sometimes, during a budget crunch, agency ZZZ might assign one or more of its existing personal — for one day, or part of a day — to elevator inspection detail. They remain on that job for only a very short time, and then return their regular responsibilities. But from then on their entire salary is assigned to be paid from the elevator inspection special fund. The agency's regular, perhaps trimmed down, budget is then available to be shared among a smaller number of employees, though the agency's manpower has not decreased at all. It is not in the nature of bureaucracy to allow centers of power — measured in number of employees and size of overall budgets — to diminish. The maneuvers bureaucrats employ routinely to protect and expand their fiefdoms, while within the letter of the law, tend to run fast and loose over its spirit (which is that government, like real people, should adjust its use of resources according to life's fluctuations). But all bureaucracy's incentives oppose that spirit, which is one of the avalanche of reasons that big government is a very dangerous, bad idea, no matter how noble the purpose it is hoped it will serve.

At other times, the special fund money simply goes unspent — for a time. That actually happened, and, yes, it happened to the Elevator Inspection Special Fund. Fees were increased in the mid-1990s to permit hiring more inspectors. They were not hired. Why? Ask the bureaucracy — and good luck. Anyway, they weren't, but the money was not diverted either, at least a lot of it was not, because we lawmakers found out around 2001 or 2002 that that particular special fund contained $10 million in unspent cash. We found it out because state revenues had slumped and we were looking for any loose money laying around to help fill the gap. The Elevator Inspection Special Fund's $10 million was "borrowed" to help pay that year's General Fund bills. To my knowledge, it has never been paid back.

What has been happening over the past two and a half decades, but with a significant boost in momentum in the wake of *Sinclair Paint*, is that within the rapidly growing levels of overall state

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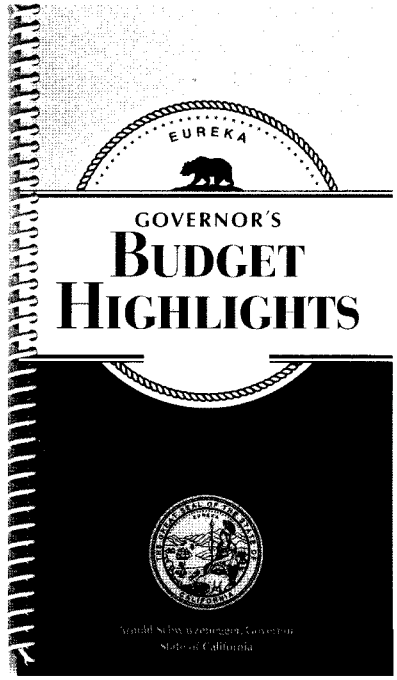
spending, the *proportions* of general fund to special fund spending have shifted dramatically. In the 1980s, when revenue was increasing during the Reagan presidency boom years, special fund revenue and expenditures were about 15 to 20 percent of the general fund. The 1982-83 numbers were $21 billion general fund (gf) vs. $3 billion special fund (sf) — "sf" standing at about 14 percent of the "gf" total. In 1988-89 those numbers were $36.9 billion gf vs. $6.5 billion sf: "sf" about 17.6 percent of "gf." In the early '90s, sf's relative level went to 30 percent ($42.7 billion gf vs. 12.2 billion sf in 94-95). And since 1999, the first budget reflecting the effect of *Sinclair Paint*, the budget has continued to show an increasing proportion of "fees" compared with taxes. In the last budget, general fund expenditures were estimated (in January) to be $103 billion. Special Funds were estimated to be $42.4 billion, equal to 40 percent of the general fund budget.

Special funds still tend to be treated like step-children in the budget committees; passed over while the focus is given to the general fund.

State bureaucrats and their Democrat allies in the Legislature have chafed all along at the limits imposed on their tax collections by Prop. 13. For them, these fees are the perfect solution. First, they don't need a two-thirds vote — and, after *Sinclair*, they need little or no fig leaf of pretense that the money paid in "fees" will be spent at all differently from the rest of state revenue collected in straightforwardly labeled taxes. Second, they can be hidden in the minutiae of the budget. The taxpayer's friends in the Legislature have not yet quite caught up with what is happening, or at least they are not yet able to do much about it. These special fund expenditures still tend to be treated like step-children in the budget committees, being passed over while all the focus is given to the big fights over general fund expenditures. And finally, these funds focus on a small part of the electorate, typically the business community, for their collection. Therefore they do not arouse the anger of a large part of the electorate.



For the bureaucrats and their Democrat allies in the administration, it has been the perfect tool to use in dealing with the governor, who likes to keep his promises, or at least be seen as keeping his promises. The spending lobbies and their supporters within the government (including those on the governor's staff) can tell Mr. Schwarzenegger he is not raising taxes if he supports their proposals to raise fees, and that they have a good reason for whatever fee hike they have in mind. If they can tie it in with global warming somehow, they'll have hit a home run. The result? Same old, same old: government grows, more bureaucrats are hired, empires are built, and union dues expand relentlessly, all without the Republicans in the Legislature being able to stop it, or even score a political hit in the press about tax increases.

There is always a good excuse for big government. Left to their own devices, Democrats, bureaucrats, and administrative technocrats can always devise a reason why there should be more people on the public payroll, solving some obscure, imagined, or concocted problem. Newspaper reporters dutifully report about the good works of the bureaucracy, bureaucrats parade their supposed constituencies in front of the television cameras and the legislative committees, and politicians wail and moan about the ancient

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evils afflicting our world — *all* in order to justify the growth. Republicans who *do* try to insert their finger in the ever-widening leak in the dike are branded heartless, uncaring, backward. The majority of Republicans in the Legislative caucuses usually have the backbone to stand up to this relentless attack, but if only a few cave in to it, the two-thirds vote necessary to approve the budget can usually be assembled. The one thing that holds the more faint-hearted of our brethren in the small government fold is the threat of the political price to be paid for raising taxes.

The *Sinclair Paint* decision solved that problem. On any given day in the Legislature, three or four members of the Republican caucus in the Assembly, and one or two of their Senate GOP counterparts will vote for this fee or that on the grounds that government "needs" it to finance some desperately important function. And it's harmless, they say — it's not a tax; it is a *user fee.* That sounds like private commerce: a

CELEBRATING THE ADOPTION OF THE CONSTITUTION, NEW YORK

fair, free trade-off between users of the service and government employees providing it. If the "user" thinks the cost too high — for, say, a day at the state beach — he can skip it, just like anyone can choose *not* to buy in the free market.

But the apparent similarity to the market is misleading. The only reason the fee is necessary to the "user" is that the government requires the individual to "use" its services in order to stay in business. And unlike a free market, the government has no competition. No one can avoid exorbitant fees by finding better "prices" down the block. The only way to escape them is simply to quit and go live in another state or do something else; except, of course, that if you try to do it, whatever it is, in California there will probably be another fee waiting for you when you try to start. As a result, the number of users and fees continues to expand. The bureaucrats argue that all these added users and the funding they supply justify expanding the bureaucrats' power, authority, and number of underling bureaucrats. The administrator of the program is now managing more employees: *that* calls for an increase in the administrator's personal salary. And the union representing the employees now brings in more mandatory union dues which are then funneled into the political system to elect politicians who believe in expanding government.

It is a particularly vicious, self-feeding circle. Between 1991 and 1998, the eight Wilson years, total state employment grew by 21,000 employees. Since 1998 — the last nine years — state employment has grown by 62,000 — 25,000 of those new hires in the last two years. Those same years have seen an exponential growth in the use of special funds financed by increasing fees.

The problem is neither taxes nor fees. It is big government. An ever-expanding government not only brings decreasing individual liberty and an increasing dependence on government but it creates an increasingly powerful dynamic within government itself demanding, always more belligerently, that the government grow and grow and then grow some more. It happened in Europe. It is happening in California. Today, fees, not tax hikes, are playing an increasingly important role in keeping the dynamic alive. CPR

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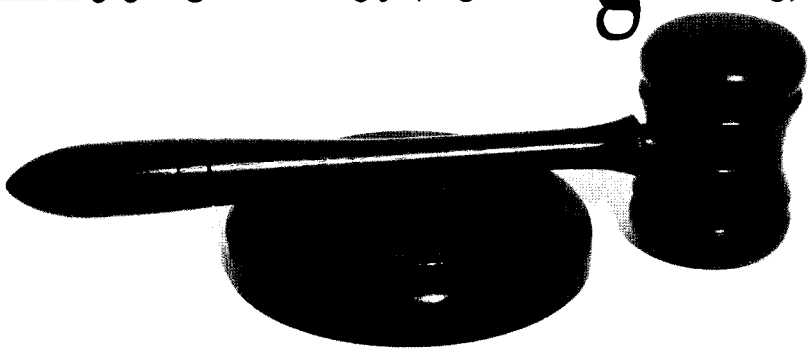
A Little Traveling Music



A Commencement Address

by Janice Rogers Brown

'You will not succeed if you allow your minds to be defeated by the feckless, photo-op consumerism and promiscuous relativism of the cult of collectivity. It takes courage to be free.'

Dean Dobranski, Distinguished Faculty, Honored Guests and Graduates, thank you for your warm welcome and for allowing me to share in the happiness and excitement of your graduation day. I am honored to be a member of the Class of 2007 and to be associated with the Ave Maria School of Law. To the graduates, their families and friends, I offer sincere congratulations. I know that it took commitment, dedication, and discipline — not to mention some masochistic tendencies — for all of you to arrive at this day. Obtaining a legal education is a daunting task. And a much more expensive proposition than it was "back in the day."

A graduation is always a special occasion. And the feeling of it — the sense of triumph and relief — is never quite forgotten. As someone who graduated from law school, well ..., let's just say a few years ago, I can testify that many other things will be forgotten, slipping away, poet Billy Collins says, "as if, one by one, the memories you used to harbor decided to retire to the southern hemisphere of the brain, to a little fishing village where there are no phones." I remember my law school graduation vividly. Not the commencement speech, of course, just the day.

It was the middle of June; a very warm day in Los Angeles. The law graduates

This article was excerpted from an address delivered by U.S. Fourth Circuit Court of Appeals Judge Janice Rogers Brown May 13, 2007, to the Ave Maria Law School graduating class.

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were outfitted in full academic regalia — just as you are today — with sleeves and front placket adorned with purple velvet, carrying hoods of purple satin, edged in gold. We were, if I do say so myself, resplendent! Just as you are. While we were waiting, an announcement was made requesting all graduates to get a release, attesting that we owed no monies to the school and had not failed to return any library books before we could receive our diplomas.

So off we went to attend to this last detail. It was so warm we had the robes unzipped. We were laughing, talking, giggly, and euphoric. And a young man, wearing the plain black gown of a college graduate, spotted us, stopped in his tracks, gazed raptly upward and said, "Wow, who are you guys?" And just like that, at the perfectly opportune moment, he had asked us one of the great questions each person confronts in life. There are three great questions: "Who am I; why am I here; where am I going?"

THAT YOUNG MAN, whose name I never knew, remains one of my fondest memories of my graduation day. It still makes me smile to think about that encounter. And periodically, I think about the questions he brought to mind. And so will you. I cannot answer those questions for you. You will answer them for yourselves. Because you chose a place like Ave Maria to begin your career, you will answer those questions better and sooner than I did. But today I can share with you a few things learned along the way, as my focus shifted from success to significance. Think of it as traveling music, an old half-remembered soundtrack that may strike — in Lincoln's phrase — the mystic chords of memory sometime in the future. I offer these few things to contemplate along the way: (1) the importance of faith and family, (2) the dangers of fools and fantasy, and (3) the necessity for failure and feck.

FAITH AND FAMILY

Because you are here, I know you are not part of the "law without values" crowd. This school has taught you that law and morality are inextricably intertwined. I offer more personal reflections. Given the culture that surrounds us, how then shall we live? You need a strong faith because what makes a good lawyer is not different from what makes a good person — humility and vulnerability must be part of the package.

David Hoffman, who published the first American work on legal ethics almost 160 years ago, and George Sharswood, who began lecturing on legal ethics in 1854, both emphasized that an attorney's conduct should be governed by conscience. Sharswood said "no [person] can ever be a truly great lawyer, who is not in every sense of the word, a good [person] .... A lawyer without the most sterling integrity may shine for a while with meteoric splendor; but his light will soon go out .... "[1] Moreover, these men flavored their discussion of legal ethics with such old-fashioned terms as honor, honesty, candor, mercy, and humility. Hoffman identified humility as essential.

> Law is a deep science: its boundaries, like space, seem to recede, as we advance: and though there be as much of certainty in it, as in any other science, it is fit we should be modest in our opinions, and ever willing to be further instructed. Its acquisition is more than the labour of a life; and, after all, can be with none the subject of unshaken confidence. In the language then, of a late beautiful writer, I am resolved to "consider my own acquired knowledge but as a torch flung into an abyss, making the darkness visible, and showing me the extent of my own ignorance."[2]

While some would perhaps be uncomfortable with the frankly religious tone of the writings of these early ethical teachers, I'm sure Ave Maria's graduates will heartily agree that such a tone is fully appropriate. Your faith is not merely important to you personally, it affects our society and country. I am always mindful of Tocqueville's caution that "[d]espostism may govern without faith, but liberty cannot." Tocqueville's point is that only people of faith can be trusted with freedom. He asks: "[W]hat can be done with people who are their own masters if they are not submissive to the Deity?" That question is more pressing today than ever. And I am very excited to see what all of you can accomplish as you take what you have learned here at Ave Maria, a commitment to faith and reason, and apply it in service to others. Law is not just a business; it is more than a profession. Rightly understood, it is a calling.

Family and faith go together — not just because your first ideas about faith are likely to be passed down to you by your parents — but also because the broader reaches of the idea of family include the whole community of hope and — on the most basic level — the survival of the human endeavor requires a commitment of the spir-

1. Sharswood, *Proverbial Practice: Legal Ethics from Old Testament Wisdom* (1995) 30 Wake Forest L. Rev. 831, 832.

2. Sharswood, supra, at p. 840, quoting Hoffman, *A Course of Legal Study Addressed to Students and the Profession General* (Arno Press 1972) 724, 766.

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it. Throughout our lives, we will be part of many families: the family of blood, the family of fellow workers; the family forged by the bonds of friendship; and the family of faith. Classmates and fellow travelers; kind strangers and kindred spirits. The answer to the question why we need faith is easy: Because. Because only faith provides satisfactory answers to those three great questions. Because there are things you will have to face alone; things you will have to do for yourself. And in those moments, those times of suffering and travail — which are as much a part of the human condition as triumph and exhilaration -- you are going to need a place to stand. Faith is that night shelter for the homeless.

WE LIKE to think that our successes, our achievements, are the result of our own talent, initiative, and sweat. But, in truth, we have nothing that we were not given. Your family has nurtured you and supported you. Teachers have inspired you. You have had the benefit of brilliant mentors who have taken an interest in you and shared their insights, their talents, and a wealth of experience without being asked.

Law can be an absorbing enterprise. Its certainties can even seem like a haven from the messiness of dealing with more intimate associates. But, family and friends must not be neglected. I have not met a single retiree who laments not spending more time at the office. Where regret is expressed, it is always for the missed opportunities to spend time with friends and family. The interaction with those you love and those who love you is the wellspring from which you renew your hope; understand the legacy of the past and dare to commit to the promise of the future. Play with your kids; keep your appointments for those Saturday morning pick-up games; learn to golf if you must (but only if you must). Have the 4th of July picnic at your house. Offer hospitality, the peace and serenity of your home, the bounty of your table. Cook for friends and share the food and the warmth and the laughter. Create new traditions or carry on the ones you already have. Spend as much time as you can in the present moment. Life is not a rehearsal. It is not a play. Our most lasting legacies are the lives we have touched with love and concern. Never forget that.

FOOLS AND FANTASIES

That was the sublime. Now for the ridiculous. I have to say a few words about foolishness.

I have not met a single retiree who laments not spending more time at the office. Where regret is expressed, it is always for the missed opportunities to spend time with friends and family.

We like to think that we do not suffer fools — at least not gladly. While that is a comforting sentiment, it is probably not true. Fools have always outnumbered wise folk. And not only do we suffer them, we often find the prattle of fools strangely seductive.

This is especially true in societies captured by the relativist, positivist, post-modern tradition which J. I. Packer accurately describes as "the egghead equivalent of Mr. Bean." We could have a long discussion, indeed, a seminar, on this subject, but suffice it to say the essence of post-modern culture has been to convince ordinary people that they are incapable of judgment and thus to legitimate the opinions of the most foolish and encourage cleverness rather than wisdom. Tolerance now means all perspectives are privileged — except those that defend objective truth. We draw the line at any hint of truth that moves beyond the scientific framework's one-dimensional understanding of reality. All that is not objectively verifiable, *i.e.*, all that is not mathematical or scientific, measurable and material, is consigned to the realm of rhetoric — a matter of mere opinion.

What is the weight of thought? On what scale do we measure a dream? What is the coefficient of love? How wide is God's eye? To carry rationalism to this extreme is dangerous folly. The very capacity of reason to know moral truth is denied. But, as Rosen has noted, when truth is reduced to a matter of perspective and all perspectives are equal, "even equality is debased, reduced to the right of all desires to be satisfied."[3] Unfortunately, relativism and its postmodern critique — which is more accurately labeled "subjectivism"— deprive people of even the ability to think.

Our culture is rapidly losing the ability to "distinguish between respect (which should not be uncritical) and servility in the face of systems whose inter-

3. Stanley Rosen, *Rethinking the Enlightenment*, (1997), p. 102, 104.

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nal logic implies the debasement and annihilation of our own."[4]

LINCOLN ONCE asked whether we would nobly save or meanly lose "the last best hope of earth?" The hope to which he referred was freedom. We may no longer be the best hope of earth for freedom, but we are hardly the worst. This is not a perfect country. A perfect country would have no people in it. But we don't need a perfect country. This country was founded on the recognition of human fallibility and a devotion to the rule of law, the ideal of equality under law, and the principles of human dignity and liberty. Obviously, it did not perfectly exemplify these principles then, as it does not now, but that in no way undermines their power. Nor does it discredit America's forefathers that their reach exceeded their grasp. We have, through bitter struggle and relentless self-criticism, come a long distance. You must continue that aspiration. You will not succeed if you allow your minds to be defeated by the feckless, photo-op consumerism and promiscuous relativism of the cult of collectivity. It takes courage to be free.

FAILURE AND FECK

That makes this as good a place as any to talk about failure. It happens that law schools are populated with neurotic overachievers. This means that most of you are perfectionists and control freaks in addition to being workaholics. I know this because I'm one of you. It also means that as good as we are at being stars, we tend to be risk averse. We really don't like to mess up, and Heaven forbid we should fail. One of the most liberating things I have come across in the last 30 years was a quote attributed to Samuel Beckett. He asks: "Ever tried? Ever failed?" And he tells us gently: "Well, no matter. Try again. Fail better." Or, as Thomas Edison put it more positively: "I have not failed. I've just found 10,000 ways that won't work." Of course, I am not saying you should try to fail. I am simply acknowledging that if you have never failed, it is likely because you have never attempted something that was personally very challenging. You've played it safe. These days, the world is often divided between thankless tasks and impossible projects. If you dare to take on the impossible, failure will be a possibility. And if that happens, pick yourself up, try again, fail better. Challenge yourself to play above your head. Go for it. Who knows what marvels of science and imagination would have never come to light, but for the willingness of thinkers and inventors to fail and fail and try again. Failing better may be the real descriptor of all human progress.

Feck is not a word you will find in the dictionary. It is not a real word, although I think it certainly should be. You are probably familiar with the adjective "feckless" or the noun "fecklessness" — the former meaning worthless, irresponsible, weak, and the latter describing that quality. Several years ago I was on my way to lunch with a couple of friends — two gentlemen in their 70s who had been friends for many decades. I was listening with half an ear to their conversation, which lamented the general fecklessness of contemporary American society, when one of them said, "you know, I can't help but feel a great nostalgia for the days when people had more feck." They were both quite delighted with their newly minted word. And because I had known them both long enough to understand what they meant, I was intrigued by it. After all, if being feckless is bad, and fecklessness is a deeply disreputable state, having feck must be the opposite of that.

Now, some smart aleck will undoubtedly explain to me why it does not mean that, but that is how I am using the word. Feck in my conception carries a lot of weight. It epitomizes the warrior virtues: courage, tenacity, honor, integrity. Being loyal when loyalty is appropriate, but also having an independent mind. A person who possesses feck is effective, tough, worthy, a person of valor. In a way failure and feck go together. To fail without being defeated, to persevere in the face of adversity, is what Daniel Golman means by emotional resilience. It is the difference between victimization and heroism.

We have gone through a long process of disenchantment in the post-Enlightenment, post-modern world — what David Hein describes as "the flattening

4. Id. at p. 211. 14

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out of our experience." Still, even if we cannot be the hero of myth — an extraordinary being possessed of super powers — to act heroically is a potential we all share. We can all have feck. And we need it. The light must always contend against the darkness. The struggle continues in each generation. If the world seems volatile, unpredictable, and scary, so it is. It always has been. There is a reason we are continually told fear not, be strong, be not afraid. The battle is unending. The tug of the collectivity, the hive mind, stands always opposed to the tractor beam of freedom.

Try if you can to be on the side of freedom. But understand that freedom — a word I use to mean human liberty — is not salvation. Free men and women may choose evil instead of good. Freedom is necessary in order for the arc of human history to continue moving upward toward the light — but it is no guarantee of virtue or goodness. It is reason that separates faith from fanaticism; and reason that disciplines power. Without faith, freedom is inconceivable. Without truth, it is impossible.

I WILL END here with an old story. Sometimes old stories are the best. Long ago in a different America, a man named Rafer Johnson won the gold medal for the decathlon in the 1960 Olympics. Rafer was a black man and he returned home something of a celebrity. The Olympic Committee hoped to capitalize on his fame and appointed him a sort of goodwill ambassador. They wanted him to visit towns across America, to talk about his experiences, to garner goodwill and hopefully donations for Olympic athletes. In those days, the Olympic Committee was not the money making machine it has become and did not have the virtually unlimited budget we now take for granted.

Rafer agreed to make the trip. It was definitely a low budget affair. He would travel across country by car. Organizations where he made appearances would help defray his expenses. He decided it would be an ideal opportunity to spend some time with his son.

Just before he left, a friend asked if he would make a stop in his hometown. As a child this friend had attended a small church. He said they were still a small congregation with very limited financial resources. But, the friend felt a visit from Rafer Johnson would do tremendous good for the youngsters in the congregation. What better role model could they have? He warned Rafer that the church probably would not be able to offer any compensation.

At some point in his travels, Rafer found himself near the town his friend had mentioned. He called the

RAFER JOHNSON

minister and offered to drop by. His call was enthusiastically received. The kids were ecstatic, his speech went well, he signed lots of autographs, and felt very pleased he had made the effort. After everyone left, he and his son remained for a little while, helping the minister straighten up the meeting room, and the minister apologized profusely for not being able to offer even money for gas. Rafer brushed his concern aside. The children's faces had been reward enough. He and his son walked out the back door of the church. Near the door, he saw a little box for benevolence donations. As he went past, he took a $20 bill out of his pocket and dropped it unobtrusively into the box.

While he was pulling out of the parking lot, he spotted the minister running after him, looking very agitated, trying to flag him down. Thinking he must have forgotten something, Rafer stopped the car. The minister ran up, out of breath. "Mr. Johnson, Mr. Johnson, I'm so glad I caught you. I didn't think we had anything to offer you. But you know the Lord always provides. I just want you to have this." And with that he pressed into Rafer's hands the same $20 bill Rafer had just left. And as Rafer sat there bemused, trying to figure out how to explain, the minister turned away and went back into the church.

At that moment, he felt a little tug on his sleeve, and his son asked: "Daddy, if you had put more in, would you have gotten more back?"

That is the bottom line. No human institution can be perfect. The pursuit of perfection is the cruelest sort of illusion. Nonetheless, if you take what you have learned here at Ave Maria, invest it wisely and with feck, God is faithful — you will get "more back." Congratulations to each and every member of the Class of 2007, and may God bless you on this special day and always.

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Why Marriage?

'Feminism' banished family in an angry fixation on 'injustice.' Now many women are rediscovering humanity's most essential institution.

by Kathleen O'Connell-Sundaram

The California Catholic Women's Forum (CCWF), a group I helped found and which I have written about previously in *California Political Review* ("True Feminism," May/June 2005), recently held its third well-attended conference in Silicon Valley. This year's event, entitled "Marriage and Family: Now That's Good for the Children!", was held to discuss marriage, particularly the benefits it brings in its natural and civil aspects.

The conference took as a starting place, Pope John Paul II's statement in his 1988 Apostolic Letter *Mulieris Dignitatem* (on the "Dignity and the Vocation of Women" — the document that inspired the founding of CCWF): "... in the same context as the creation of man and woman, the Biblical account speaks of God's instituting marriage as an indispensable condition for the transmission of life to new generations, the

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transmission of life to which marriage and conjugal love are by their nature ordered." In contrast to modern "feminism"'s consistent search for injustices to explain and address women's discontents, the pope's words direct attention to men and women as they are, or are not, in tune with their own natures. This gives meaning and understandability to marriage, family, and the sacrifices they require. In context, these self-sacrifices can be seen to serve a worthy purpose; without that natural context, they too often seem no more than pointless drudgery or even abuse.

Civil laws may support or burden it but, as God's gift, the institution of marriage is and must remain alive and well.

Marriage starts from the premise that man and woman were created for each other, to be *for* the other. Matrimony is an invitation to go beyond the self: to love another. By way of illustration, consider two people walking in paradise, but one is blind and the other deaf. They *need* one another. If they work together, sharing their gifts, each will come to know what is special in the scene, though a large part of it be missing from their direct sense of it. The comparison holds not only to the unitive aspects of the sexual relationship, but in all married life's shared essentials: the new life in a budding pregnancy, dealing with the pain and stress of raising children, the depression parents often feel after their children have grown and left "the empty nest," the ordeal of one's last days with his or her spouse.

A relationship — if it is to be enriched rather than impoverished by these experiences — must be built on selfless giving and the lessons that doing so teaches about life's true value, lessons not available in a context of tit-for-tat expectations about marriage as though it were a kind of business arrangement requiring value received for value paid — or no deal.

Seen in its natural context, marriage flourishes when the couple understands the need to show appreciation for and acknowledgement of the generosity of the other for gifts given that cannot be repaid in kind because the recipient cannot repay what comes from the very essence of the giver's unique self. The gift of their different genders is of this kind, and belongs to the marriage. The trueness of marriage yields great love stories and testimonies, the kind of stories with the happy, even bittersweet endings shared at family reunions.

As long as there is man and woman, marriage will remain, because it is of the natural order. Civil laws may support or burden it but, as a God-given gift, the institution of marriage is and must remain alive and well. A man and woman declare before God and witnesses their intention to join to each other and become one. CCWF set out to discuss the good news of marriage in its intended created order, to elevate the discussion beyond today's cloudy controversies.

PRO-MARRIAGE: SCIENCE, RELIGION, MORALITY

The conference's keynote speaker was Jennifer Roback Morse, PhD in economics from the University of Rochester. She taught economics at Yale and George Mason Universities for 15 years, is a former fellow at the Hoover Institute, and is now a fellow at the Acton Institute. "A committed career woman before having children," her website reports (www.jennifer-roback-morse.com), " .... [t]he devastating experience of infertility brought her to her knees and back to the practice of the Catholic faith. In 1991, she and her husband adopted a two-year-old Romanian boy, and gave birth to a baby girl." Dr. Morse is author of *Love & Economics: Why the Laissez-Faire Family Doesn't Work* and *Smart Sex: Finding Life Long Love in a Hook Up World.*

In her talk, she established the scientific basis in favor of marriage, calling it "the proper context for both sexual relationship and for child-

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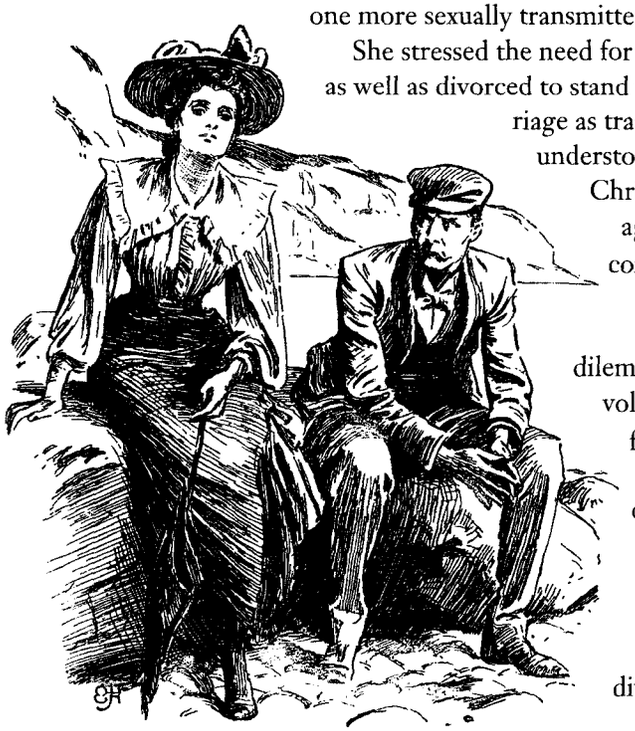
rearing ... Science demonstrates this both physiologically and socially." As to its moral and religious standing, Dr. Morse cited the *Catechism of the Catholic Church:* "The well-being of the individual person and of both human and Christian society is closely bound up with the healthy state of conjugal and family life." (Section 1603)

With a touch of humor, she pointed out "the organic purposes for sexual relationship are procreation, obviously, and spousal unity." Dr. Morse stressed that a woman's hormonal response to sex naturally leads her to bond with her sex partner as a protective mechanism. "The Darwinists," she said, "would say that this is nature's way of attaching the woman with her sex partner who could be the father of the child resulting from the sexual act. It also keeps the mother attached to the child. Spousal unity provides for the security of the young." Dr. Morse also urged abstaining from sex before marriage to avoid the depression many young women experience in the "hooking up" culture of serial, casual, one-night stands that has become the social contract of college campuses. She refers to this depression as one more sexually transmitted disease. She stressed the need for the married as well as divorced to stand up for marriage as traditionally understood by Christians against the contraceptive lifestyle, the ethical dilemmas involving *in vitro* fertilization, and the devastation wrought on everyone concerned by divorce, especially no-fault divorce. Understanding what the Church teaches about marriage would elevate the role of father and benefit all family members. An intact family, she pointed out, has positive impacts on the disciplining of children and the health of the spouses.



The second speaker, Martha McRoskey, is a mother of seven from San Diego and founder of Parents in Prayer. She talked about maintaining order in the home by emphasizing love for God and for one's spouse. Turning again to *Mulieris Dignitatem*, Mrs. McRoskey continued the discussion of the gift of the complementarity of the sexes. She said woman learns about herself through giving the gift of self to others and that women, by their nature, are strong when their families and children demand their unceasing efforts to meet their needs.

A cross section of Silicon Valley women, differing in age, profession, ethnicity, and marital status attended the conference (as did some single and married men). Many attendees, at the event's conclusion, said they intended to bring friends next time. Conference evaluations were overwhelmingly positive. No apparent controversy occurred as the women pondered the personal subject of feminism coupled with marriage as a part of nature that provides both the giving and receiving of nurturing and protection. The broad message was that gender and marriage are gifts contributing to the dignity of the person.

With this conference, CCWF is suggesting that the time is here to emphasize that marriage is a common good in its intended natural order. Mankind needs stable marriages to provide the spousal love, fidelity, and trust necessary to raise children well. Christ emphatically classed divorce and remarriage outside the proper created order. The family and church communities have a duty to advocate marriage as a positive for the individual, the family, and society. Married couples that maintain a well-ordered organic bond, married persons not living with their spouse and not remarried, and single persons living a chaste life all provide a positive example of marriage and family — an example society desperately needs to help it bolster its most necessary institution. CPR

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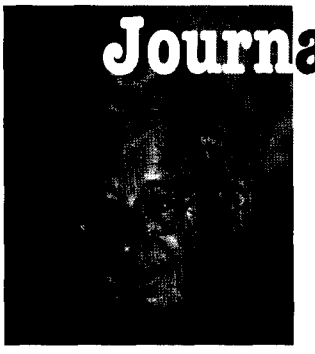
Si Frumkin's Journal



To be a Saint in America

One of the most stringent requirements for Catholic sainthood is to be dead — live individuals are not eligible, no matter how saintly their lives are. Obviously, there also are additional criteria — not all who die are automatically sanctified. Outside of the Church, sanctification — or its secular equivalent — varies greatly. In general, the requirement of being dead is waived in communist and other dictatorships, as well as in sport-obsessed societies where athletes are worshipped.

In the United States, sainthood is almost automatically bestowed upon dead presidents a couple of decades after their last term. The problematic policies, personal problems, economic disasters, and foreign policy blunders tend to be forgotten, forgiven, and replaced by a glowing image of a wise leader who should be an example to the inadequate politicians of today.

Jack Kennedy is a perfect example of our imperfect memory. Say "JFK" and you get an image of Camelot, a young hero who inspired a nation and died a martyr's death, a saintly and revered figure. But in his time, Kennedy was not all that popular and his chances for re-election to a second term were slim. His selection of Lyndon Johnson as his vice-president and the fateful campaign trip to Dallas were primarily prompted by lack of support in the South. His assassination silenced his critics; his anointment followed.

A picture of a weeping Ronald Reagan appeared on the cover of the March 26 *Time* magazine. He is supposed to be weeping because of the decline of

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Si Frumkin is publisher and editor of Graffiti for Intellectuals. *This article originally appeared in* Graffiti *April 9, 2007.*

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the Republican Party. The story, by Karen Tumulty, presents the Republicans as adrift: "The principles that propelled the (Reagan) movement have either run their course, or run aground, or been abandoned by Reagan's legatees."

In a critique of the *Time* article, Noemie Emery of the *Weekly Standard* says that Reagan is presented as "a beacon of purpose and clarity, a statesman of genuine vision and character, dwarfing the pygmies who have frittered away his inheritance. A tone of nostalgia runs through the story: They don't make them like him anymore, more's the pity, and certainly not in the Gipper's old party."

I fully concur with *Time* in its current assessment of Reagan as one of this country's great leaders and I commend its editors for finally saying so. However, *Time* is saying this in 2007 — 18 years after he left office. It had a very different view of Reagan 18 years ago.

Its 1987 archives expose him as a poseur, a fraud, an out-of-touch airhead, a loser, and an unrealistic dreamer. Reagan is held responsible for the Iran-Contra scandal, the stock market crash, ineffective policies in Latin America, Europe, and the Middle East, and provocative actions towards the Soviet Union.

Domestically, he was unable to get a confirmation for Robert Bork to the Supreme Court and his Party lost the Senate in 1986.

Here is an excerpt from a November 2, 1987, *Time* piece by Walter Isaacson:

"What crashed was more than just the market. It was the Reagan Illusion: the idea that the country could live beyond its means indefinitely .... He stayed a term too long .... As he doddered precariously through his press conference, Reagan appeared embarrassingly irrelevant to reality that he could scarcely comprehend ... he was an emperor with no clothes."

Gary Wills, March 9, 1987: "There was no Reagan revolution, just a Reagan bedazzlement ... its props are being knocked out bit by bit .... It was a vast communal exercise in make-believe." And Lance Morrow, November 9, 1987: "... A suspicion in many minds that Reagan ... was presiding over an administration bereft of ideas and energy ... the president seemed bizarrely disengaged."

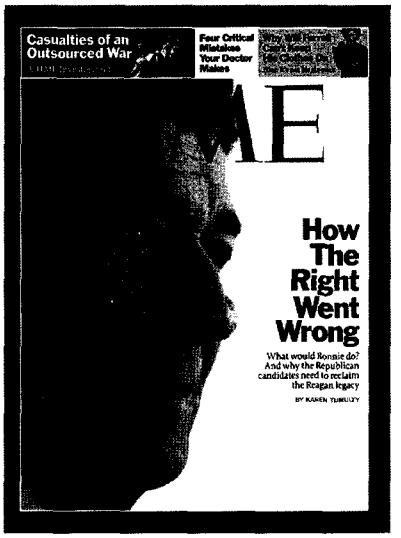
"His administration has been riddled from top to bottom with allegations of impropriety and corruption .... More than 100 Reagan administration officials have faced allegations of impropriety and corruption," wrote Richard Stengel on May 25, 1987. "... a portrait of impropriety on a grand scale ... this number is without precedent ... a breakdown of the immune system ...."

A George Church article in *The New Republic*, "Brain Dead," (January 26, 1987) implied a lack of intellectual ability. The *Washington Post* reported that Reagan was only minimally involved in deciding administration policy on federal pay raises and the *New York Times* described how congressional leaders left meetings with Reagan wondering "if he understood the issues they had raised."

In 1988, in a collection of essays, the *Washington Post's* David Ignatius called Reagan's foreign policy an out-and-out failure: "Compared to the Reagan record of non-achievement, former president Jimmy Carter looked like a master diplomat ... because he concentrated so much on image rather than substance, Reagan leaves behind an array of outdated strategic premises and alliances that don't quite adhere ...."

There is more, much more, similar garbage that was presented as wisdom and truth by the media two decades ago. Just before the 1984 election when Reagan won an historic 49-state landslide, pollsters said that only 40 percent of GOP voters would vote for Reagan. He was presented as stupid, uneducated, and a warmonger who invaded and subverted Central America and threatened world peace by placing missiles in Europe.

It took 18 years for *Time* and the rest of the media to admit how wrong they were. I wonder if in 2025 the media will admit how wrongheaded they were about George W. by granting him the respect that he — as well as Truman, JFK, Reagan, and LBJ — were denied during their tenures. CPR


Casualties of an Outsourced War
Four Critical Mistakes Your Doctor Makes
How The Right Went Wrong
What would Ronnie do? And why the Republican candidates need to reclaim the Reagan legacy
BY KAREN TUMULTY

Time's crocodile tear for American conservatives

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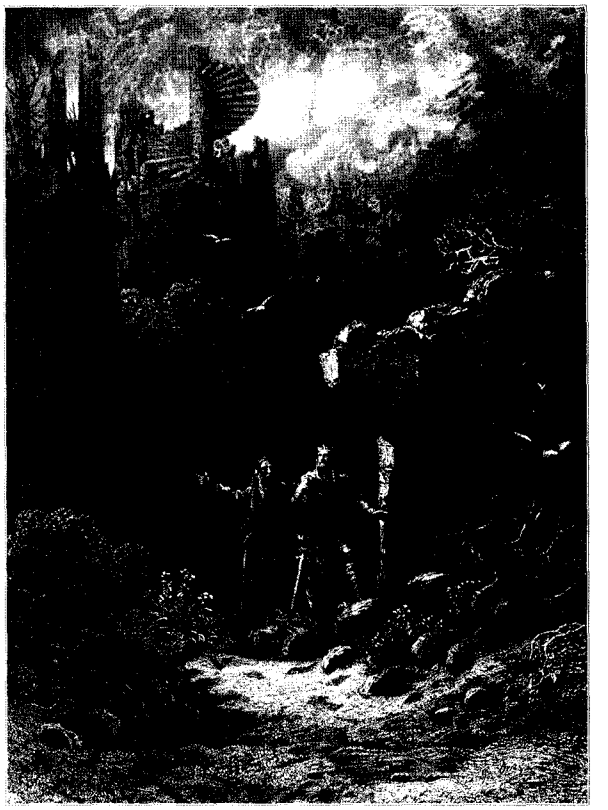
Gone to Earth

Nothing that was worthy in the past departs; no truth or goodness ever realized by man ever dies, or can die.

– Thomas Carlyle



King Arthur, guided by Merlin, in Gustave Doré's illustration

Late May brought the terrible news of the death of Georg Bernhard Tennyson, known to California Political Review *readers since 1989 as "Criticus," his every-issue column supplying a light-hearted break in the often difficult and all-too-serious politics that is this journal's primary concern. His "Arts & Culture" entries, for all their humor, often touched the deeper, more decisive human issues* CPR's *straightforward political journalism could only hint about. Their overall optimism was certainly of conservatism's essense, registering our knowledge that, with God in His Heaven, all would eventually be right with the world (even if later rather than sooner) for those that keep the faith, poor stumbling humanity's best efforts to end us all over a cliff notwithstanding.*

As a tribute, we publish three reminiscences of Georg by colleagues who knew him through his work with CPR, *followed by a reprint of one of the earliest Criticus columns.*

Tennyson Reads Tennyson

Andrew W. Zepeda

Georg Tennyson was one of the last of the truly literate academics and just a pleasure to be with. I first encountered Georg when I was a student at Thomas Aquinas College in the Pleistocene Epoch when that school was located in Malibu Canyon. Georg was invited to the Friday night lecture series (which were usually quite philosophical or theological). His performance was entitled "Tennyson Reads Tennyson." There was no lecture. Georg simply read from Alfred, Lord Tennyson's *Idylls of the King,* continuing for well over two hours.

These lectures, typically, lasted 90 minutes, and were followed by a break for coffee and cookies and, finally, the lecturer would face a philosophical interrogation during question and answer. Also typically, these second sessions were the province of the diehards, with the tutors often staying along with a few students while everyone else slipped off campus for beer and whatever. Not so when Georg read Tennyson. He had everyone spellbound. It was a popular act and he was invited back a second time during my matriculation to an identical reception. He was onto something. We had forgotten poetry and, when exposed to it, we found ourselves fascinated.

Years later I met Georg for the first time at a Christmas Party for *California Political Review* writers and editors. By then I had become a fan of his back-of-the-volume critical musings. He covered whatever he wanted to cover. He gave battle to political correctness by

Andrew W. Zepeda is a member of California Political Review's *Editorial Board.*

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ridiculing it with his wit. How he found some of these bizarre stories always intrigued me. Where does one have to go to pick up all these cultural oddities? How many obituaries must one read? I had become a Constant Reader (as Georg referred to his fan base) and I would tell *CPR's* editor that, to sell subscriptions, simply hand out copies of Georg's columns because they alone were worth the subscription price.

More recently, I asked Georg to consider reading poetry to high school students at St. Monica Academy in Pasadena, a school formed by several like-minded parents to provide their children a more traditional, classical education. He graciously accepted and motored out to Pasadena in late April of this year.

I never spoke to him afterwards although I meant to thank him. But I learned from the headmistress that he thoroughly enjoyed reading poetry to the young people. He commented that that school and its students were like those he remembered in the schools of his childhood. He offered to return for the fall semester to read again. While we were scheduling his visit, he asked whether it would be appropriate to read some humorous verse as well as more serious poems. I told him that would be fine. And my children said they got a kick out of his selections, which included Dorothy Parker. What showed through it all was his sincere desire to interest these children in poetry, something he really loved. And he succeeded. Those students will be praying for him at their morning assembly. *Requiescat in pacem.*

Ask Georg

William E. Saracino

In his magnificent biography of Winston Churchill, author William Manchester writes that "men who consider themselves indispensable almost never are." Georg Bernhard Tennyson never considered himself indispensable, but in many ways and to many people he was just that.

California Political Review will, I suspect, eventually find a quality writer to fill the space once occupied by Georg's column. But that writer won't be Georg Tennyson, the turn of phrase and rapier wit won't be Georg Tennyson's, and to those of us who knew, read, and appreciated him the difference will be stark.

I have lived almost five full decades now, and to resort to an over-used phrase, Georg was one of a kind. He was a true Renaissance man: educated, cultured, entertaining, and kind. Whenever I came across a question to which I didn't know the answer, the first thought that almost always came to mind was, "Call Georg; he'll know." He usually knew the answer off the top of his head, and if he didn't it normally took him no longer than 10 minutes of research to find it.

But Georg's encyclopedic knowledge was the frosting on the cake, at least for me. What made Georg so special was his wit, conviviality, and kindness. Many times over the past years, *CPR* editor John Kurzweil and I would meet at Georg's house in the evening of the day that the newest issue of the magazine was delivered unto the tender mercies of the post office.

Georg was the perfect host, having a stellar array of cheeses, dips, crackers, and munchies out to complement the Bombay gin (I think he got especially for me), and the scotch and beer he and the editor imbibed.

The conversation there was rarely about the magazine. Rather it covered topics from the Italian postal service and railway system to arcane British authors (Georg, after all was said and done, was a brilliant professor of English), to various aspects of the USC vs. UCLA rivalry to every topic under the sun. But even when Georg was showering insults on my Trojans or anything Italian, there was always a twinkle in his eye, a muted laugh in his delivery, and you knew it was all in great fun. How I treasure and shall miss those evenings.

"Great fun" is how I will most remember him. One of the smartest, kindest, and most entertaining characters it's been my pleasure to know. When my time comes to shuffle off this mortal coil (Georg will approve of my use of this phrase instead of something mundane like "my time to die"), I will know I've reached home safely when I hear, in perfectly accented British, "My dear Saracen, would you like lemon or lime in your gin and tonic?" God bless you Georg. Keep the gin well chilled please.

William E. Saracino is a member of California Political Review's *Editorial Board.*

Too short a time

John Kurzweil

This July/August *California Political Review* marks only the second *CPR* issue since this journal's founding that does not include an original "Arts & Culture" column by Georg Bernhard Tennnyson. He and Bill Saracino were the only writers to be with *CPR* from its first (prototype) issue, cobbled together in the fall of 1989. And Georg was the only writer (including the editor) to contribute original copy to every issue (save one) from that first number to May/June of this year — 97 Criticus col-

John Kurzweil is CPR's *editor.*

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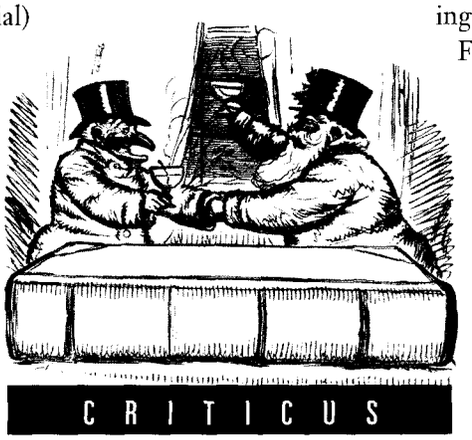
umns in all. The notion of putting the book together without him is, for me, just simply unimaginable.

I met Georg in 1989 after inquiring at the old *Claremont Review*, in which I had seen his articles, about how to contact him. I was looking for writers for the political periodical I was trying to get off the ground and was especially interested in adding literary/cultural coverage and commentary to contrast with the journal's primary content, hard-hitting politics. In addition, I wanted a substantial (some readers thought — some still think — too substantial) participation by *CPR* in cultural controversies. I have long suspected that the real battles are fought within the culture, and only later, after the issue is decided, are the results publicly posted, so to speak, in the form of political trends this way or that.



A little to my surprise, given the wobblyness of the not even yet begun venture, Georg proved not only highly accessible but eager to be part of the new *California Review* (to which name we soon added *Political* to avoid conflict with an existing publication).

I envisioned a grand scheme for *CPR*, re-creating the conservative intellectual movement's thought- and controversy-provoking three-way alliance/tension of traditional conservatives, libertarians, and anti-communists — the intellectual triad that had propelled *National Review* at its founding in the 1950s. At various times, I spoke with libertarians and former leftists now fighting their old allies, searching for a new generation's James Burnham and Frank Meyer. In my mind, Georg Tennyson was to be our Russell Kirk.

Of course, fortunately for *CPR*, all the people I spoke with and who were kind enough to contribute to the magazine resolutely ignored all my talk of constructing an ersatz California *NR* 30 years, 3,000 miles, and an eon of political developments removed from the original Bill Buckley enterprise. G.B. Tennyson, especially, with his characteristic cheerfulness and kindliness toward me, set about being himself, contributing a natural flow of inspiration and cognition entirely his own. Not a hint of Mr. Kirk (unless it was in Georg's own seemingly inexhaustible store of knowledge) but, instead, nearly 100 columns of purely Critical wit and wisdom. If George recalls anyone from the old *NR*, I would nominate Erik von Kuehnelt-Leddihn, about whom Buckley once remarked: "He is equipped to lecture on everything from aardvarks to zymurgy, and will be glad to talk to groups in German, Russian, French, Spanish, Italian, or Japanese. By special arrangement, he will learn any other language. However, for that he needs two weeks' notice."

The title of these recollections, "Gone to Earth," reprises a heading Georg chose for one of his periodic "necrology" columns covering, as he put it, "the odd, the offbeat, the eccentric." (He led that column with an "Inscription on a tombstone: 'I told you I was ill.'")

He liked remarkable people, not surprisingly, being one himself. "Requiem for a Fräulein," the Criticus reprint on the next page following, was one of my favorites, and featured an illustration by Mrs. Criticus, his beloved Elizabeth Tennyson, whose death in the mid-1990s Georg never quite got over — well, honestly, that he never got over at all. Finally, we reprise one of his "Watched Words" sidebars, featuring another drawing by Elizabeth T., happily skewering political correctness, Georg's all-time favorite target.

G. B. Tennyson appreciated the aesthetic richness of life in all its variety of peoples, languages, histories, politics, cultures, religions, literatures, quirks, enthusiasm, ideas — the opposite of the cowardly, yet lustily boastful conformism of Dan Rather's "correct side of history." With Western elites in headlong retreat from life, Georg Tennyson reveled in the human spirit through all the ages of man. Some especially fortunate UCLA students were privileged to attend his classes in a time when too many undergraduate intellects are hammered into Procrustean beds of dead-headed sameness and "progressive" posturing. Georg was never bitter, finding, rather, inexhaustible comedy in the embrace of the drab that he railed against. He took to controversy like a sporting dog hearing the call of the chase, and anyone might suddenly find himself in a jolly good public donnybrook with Criticus. (I once made the mistake of suggesting privately to Georg that his beloved antebellum South had perhaps contributed tragically to its own demise, and found myself — being a son of Richmond, Virginia — tagged "Editor Scalawag" in print for the better part of a year.)

After the many years (nearly 18) of collaboration I was privileged to share with him, I hate to say goodbye, and will instead simply thank God for the too short time He blessed us with Criticus. CPR

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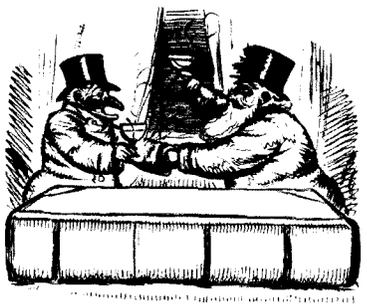

CRITICUS

Pearblossom II:

Requiem for a Fräulein

BY G.B. TENNYSON

ALAS, MY fears have been realized: "Fraulein's" is no more. For more than a year the signs still stood as you approached Pearblossom from the west: "German Food — One-Half Mile — FRAULEIN'S." (No umlaut over the A to confuse the monolingual, though I shall use it hereafter when referring to the person.) The writing was in black on a yellow background, all edged in red, a foretaste of the restaurant itself. This structure was apparently designed to look like a chalet, a sharply peak-roofed building, with overhanging scalloped edges on the front of the gables, a cross between Zermatt and Hänsel and Gretel, but all of it exceedingly small and merely the front extension or add-on of a larger structure in the back that evidently served as dwelling house for the proprietress.

The gables, scallops, and the wooden edging round the building were in the same solid red that outlined the road signs. And the rest of the cottage was in the same vivid yellow that formed the basic color, while the name was in stark black. Perhaps Fräulein was seeking to capture the mustard, red, and black of the German flag, a gesture that would surely be lost on most passers-by in the Mojave. Nor would they be likely to fall into the trap of thinking it the colors of the Belgian flag, which, absurdly, they also are (why couldn't a resurgent Germany have had the guts to go for the good old red, white, and black of more uncompromising memory, which was after all nothing more than the ancient colors of the German merchant marine?). Moreover, in the desert landscape, yellow, red, and black looked even more bi-zarre than the De-Zert Bi-Zarre back down the road which constant readers will recall from the previous installment as the gateway to Littlerock.

BUT YELLOW and red with touches of black Fraulein's was and remained, even during the more than a year that the "CLOSED" sign stood in the window at all hours. What had happened, one wondered. Perhaps Fräulein was on an extended trip back to the Fatherland, though surely not for any gastronomic purpose, judging from the fare she served in the past.

Now, truth to tell, I was only in Fraulein's once, but it was a revelation, albeit one having little to do with

This column, originally published in the Summer 1992 CPR, *was the second in a Criticus travelogue series on California Route 138 — known as the Pearblossom Highway — an east-west route Georg often drove along the San Gabriel Mountains' northern foothills. G. B. Tennyson, it said, is professor* of English at U.C.L.A. and co-*editor of* Nineteenth Century Literature.

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gastronomy. Rather less than the former Valley Hungarian Sausage and Meat Co. did Fräulein strive to capture the glories of German cookery. True, she offered a knackwurst here, a bratwurst there, a bit of German potato salad on the other hand, but the beer was Budweiser, the soft drinks bubbled from the usual dispensers, and the bread and rolls came from standard packaged goods, as I suspect did even the wurst itself. The menu also contained some of the standard and less challenging Pearblossom Highway staples such as hamburgers and fries.

But then there was the decor. It defied description. It was certainly what Baedeker would have honored with the notation "es lohnt sich der Umweg," or, Englished, "worth the detour," not that there would be much detour if one were already on the incomparable Pearblossom, so perhaps we should say, "es lohnt sich der Aufenthalt," which we can loosely render as "worth stopping for."

Illustration by Elizabeth Tennyson

For, you see, Fraulein's was extraordinarily small. Perhaps four tables altogether. As you entered there were three such small, square, dark, wooden tables lined up on the right-hand side with four chairs each, one such table on the left, the rest of that left side occupied by a longish, cluttered counter, behind all of which loomed Fräulein herself. The entire room was not more than twice as large as your average apartment kitchen. With an endearing bluntness Fräulein had designated the single left-hand table at the front with a crude, hand-lettered sign as "Smoking Area." It was perhaps three feet from the closest non-smoking area and perhaps 12 from the farthest.

But all this was as nothing, indeed less than nothing, when compared to the Kitsch that Fräulein saw fit to distribute any and everywhere about the room, especially on the counter side. Now, it is a truism that mitteleuropäische Gemütlichkeit (middle-European friendly comfort) often extends to an overdecoration that would send a Le Corbusier to an early (though to my mind never too early) grave. It runs to rows of beer steins — some of gargantuan proportions and medieval complexity of inscription that enshrine homely wisdom: ein froher Sinn bringt viel Gewinn (cheerfulness brings riches) — to shellacked, wavy-edged wooden plaques with other equally wise sayings or quotations incised in black on a caramel-colored background, to antlers of every conceivable mountain ruminant, to satin sashes commemorating sing-fests or beer-drinking contests, and in Alpine regions to cow bells (the official instrument of the Swiss national ski team, by the way; listen at the next Olympics and you'll hear them clanging above the shouts of "Hup! Hup! Hup!") — in short to excess rather than restraint.

Ah, but Fräulein was able to join to all these time-honored ingredients yet more excess that gave her restaurant a true local habitation and a name: paintings of mountain scenes of inexpressible ineptitude, model airplanes from previous wars, toy cars, glasses with small flags of all nations from Iceland to Israel, pretend stained glass made by pasting colored patches of paper on regular glass, dolls in who knows what native costume, tiny cups and saucers and miscellaneous dishes with gold edging, cheap China Dresden shepherdesses forming bases of small pink-shaded, fringed boudoir lamps, gewgaws of dubious provenance hanging from the ceiling, pri-meval candies and marzipan under glass on the counter: a gallery, an agglomeration, a bizarrerie, a wonderment.

ON THAT one previous visit of mine about two or three years ago I had the opportunity of encountering and observing Fräulein herself. An ample, no-nonsense woman, reserving all her fantasy, I suppose, for her interior decoration. It was a midday in a midweek and only one other customer was in the restaurant. He appeared to be a grizzled desert varmint type, but was evidently not from the immediate area, since it was clear he had not patronized Fraulein's before, for he peppered her with questions no local would have ventured upon. The scene could have come out of an old western or better yet from *Bagdad Cafe*, with Fräulein as Marianne Sägebrecht and the varmint as Jack Palance:

Varmint: "So you must be this here Frowlein."
Fräulein: "Vat if I am?"
Varmint: "Well, I just figured you must be from the name. You German or something?"

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*WATCHED WORDS**

The Looming Terror

As long ago as the fall 1990 number of *CPR*, followed by the first "Watched Words" in Winter 1991, Criticus alerted constant readers to the looming terror of academic political correctness, a topic that was just being broached in advanced circles but that has since become a cliché. Indeed, notice of it has spread so widely, the jokes about it have become so obvious, that "Watched Words" has seemed superfluous and has been in quiet retirement for several issues now.

But the loony left never sleeps, and it never takes notice of unanswerable criticism. And often the right too complacently laughs off the grosser instances of left lunacy. Still, it came as a surprise recently to read in a column by William F. Buckley that he had not previously encountered the use of the word *chair* to mean *chairman* and that his use of *chairman* in addressing a female raised hackles and led to a severe reprimand of the noted wordsmith by a militant chairbeing. Where has he been, one wonders? Obviously not moving in academic circles where *chair* is now so firmly established that signs reading "Chair's Office" or statements such as "The Chair told me" elicit not the slightest glimmer of surprise or perplexity. No one on campus (other than Criticus), upon encountering such signs or statements, any longer envisions a room occupied solely by a chair or a chair uttering administrative profundities. Like the words that mean their opposites recently listed in a *Time* essay, we all now know that a chair doesn't mean a chair, it means a person.

One thing, however, that *chair* reminds us of in our bemused observation of the PC Follies is that certain revisionist terms have more staying power than others and are quickly adopted into the linguistic mainstream by the ever-pliant media. Therefore it remains the duty of a vigilant Criticus to point them out, while leaving such palpable nonsense terms as "melanin impaired" (*i.e.*, white skinned) to fade away, so to speak, in a wash of gentle derision. Hence this occasional revival of "Watched Words."

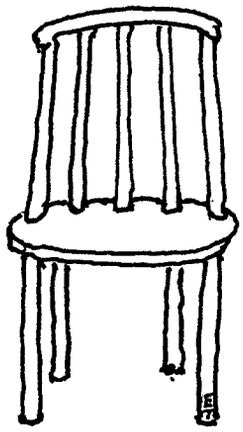

Illustration by Elizabeth Tennyson

Two Worth Watching

Two terms that bear watching have recently fixed themselves on the newspaper and magazine pages and on your local television newscaster's lips. The first is the less offensive of the two, namely, "workers' compensation." The person (formerly "man") on the street may still speak of "workmen's compensation," but all *bien pensant* commentators have degendered workmen to workers. It lacks euphony certainly, suggesting bees more than humans, but it can be lived with if you are of an accommodating nature. On the verbal offensiveness scale of one to 10, it rates a mere five.

Much higher on that scale and definitely to be resisted is the emergence in and around Memorial Day of that hitherto unheard of national shrine "The Tomb of the Unknowns." This sounds like a title of a B-movie sequel to "The Night of the Living Dead" but is in fact the quietly renamed "Tomb of the Unknown Soldier" in Arlington National Cemetery. No doubt the reasons for this change (who did it and under what authority?) are numerous.

Pat Schroeder Tailhooked?

First, there is more than one unknown soldier buried there. But then, one could call it the Tomb of the Unknown Soldiers. Was the reason then, perhaps, that a given unknown body is that of an airman or seaman, not necessarily a foot soldier? If that were all, we could move to "Tomb of the Unknown Warriors."

But surely the most important reason for the change is that words like soldier and warrior suggest a male person, and airman and seaman positively scream male to the politically correct ear. (The latter term seems to scream it twice over.) What if the unknown body were that of a WAC or WAVE — or Pat Schroeder tailhooked while dressed as Michael Dukakis in a tank? No, it wouldn't do to imply that only men have fought and died unknown. It might discourage women from wanting to be combat soldiers, so that they too could be injured and mutilated beyond recognition and placed under the mournful, memorial gaze of Robert E. Lee atop the hill at the Custis-Lee Mansion.

Hence the ghoulish formulation "Tomb of the Unknowns." Just be sure when you go through the place at night that you're whistling "Dixie."

— *Criticus*

** originally published Summer 1993*

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The scene could have come out of an old western or better yet from* Bagdad Cafe, *with Fräulein as Marianne Sägebrecht and the varmint as Jack Palance.

Fräulein: "Maybe so, maybe not. Vat do you care?"
Varmint: "Well, I mean, how'd ya get out here in a place like this?"
Fräulein: "Dis is my place. I run it."
Varmint: "Yeah, but how'd ya get out here? I bet you was a war bride. Was ya?"
Fräulein: "Whose business is dat?"
Varmint: "I just wanted to know. I was just guessin'."
Fräulein: "Vell, da var vas a long time ago anyvay. You vant to order, or you just vant to talk?"

VARMINT ORDERED. I kept silent. Match to Fräulein by a knockout. Still, Varmint had scored a point or two. What was Fräulein's story? How had she come to be there? Did she socialize with the Valley Hungarians? Could I perhaps find out by a more subtle approach on a future visit?

But not long after that the closed sign went up and stayed up. Then by early March this year the road signs advertising "Fraulein's" had been painted over white, leaving only the black borders. By April the restaurant itself had followed suit and was now white with the scalloped border painted black. More disheartening yet, the road signs now proclaimed "Mexican Food — One-Half Mile — Dino's," and the sign in front of the restaurant read similarly: "DINO'S — Mexican Food." Dino's? That popular Mexican name?

Up to now, Dino's had been a small hamburger stand just a few paces east along the highway from Fraulein's. Obviously Dino had bought out Fräulein. I could not resist a visit. Although the basic interior layout was the same, gone was almost all of the Kitsch, save for a lone oil painting of an Alpine scene that was clearly a legacy of happier days with Fräulein, especially since it made the result of a paint-by-the-numbers kit look like the work of Rembrandt. The rest was bare and charmless. To be sure, the person I took to be Dino and the woman I took to be "Mrs. Dino," neither one in the least Mexican in aspect or demeanor, were pleasant enough, as they put forth a menu that offered mostly regular Pearblossom fare along with some tacos and burritos and bowls of salsa on each table. In other words, Fräulein's menu with the German touches turned into Mexican ones.

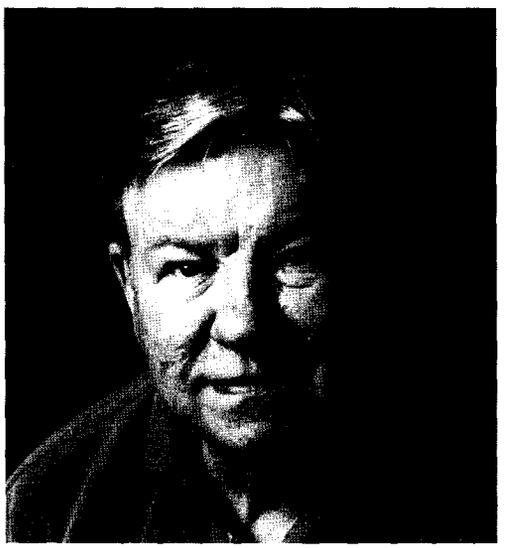
"What happened to Fräulein?" I asked the Dinos. "Oh," replied Mrs. Dino, "she's been very ill for a long time." A pregnant pause, then, "cancer." "Oh," I said, "then I suppose she'll not be back." "No, certainly not."

I couldn't bring myself to order a taco, but the knackwurst was no longer on offer, so I had a standard Pearblossom patty melt.

When I left, I said to the "Dinos," "She wouldn't know me, but tell Fräulein a customer asked after her and wished her well." "Yes, we will," they assured me.

And, at the door, for once thinking of the thing I really wanted to say at the time I wanted to say it rather than later, I turned to the new proprietors and said, "You know, it would have been nicer if you had changed the name to 'Señorita's'."

We have come only a few miles farther on from the former Valley Hungarian and now here was the former Fraulein's. The Pearblossom seems to be turning into a Boulevard of Broken Dreams, and we haven't yet reached Llano where those forlorn stone chimneys tell of yet another one. But we're headed that way.



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First Things

The face of evil

by John Kurzweil

So as through a glass, and darkly
The age long strife I see
Where I fought in many guises,
Many names — but always me.

— George S. Patton,
"Through a Glass, Darkly," 1922

I happened to find myself in a doctor's waiting room recently, which is the only reason I also found myself watching "Oprah" on television, at the pleasure of an elderly woman, also awaiting medical services, who turned the sound up and down, alternating with a series of calls made and received on her cell phone. The show featured a dramatic meeting between the daughter of a Nazi death camp officer (Amon Goeth, I believe, portrayed in Steven Spielberg's devastating film *Schindler's List)* and a woman who had survived the camp. The poignant meeting and conversation between the guilt- and sorrow-ridden daughter and the forgiving (to the daughter at least) and also sorrow-ridden survivor, interspersed with grisly photos of actual camp executions and scenes from Spielberg's film, conveyed horror, pathos, and, at the same time, the sublime peace that follows sincere sorrow for sin and sincere forgiveness, especially when the crime involved is so terrible.

The horror appeared at many levels: the horror of destroying human life, evil in itself and in its devastation of the victims and of those who feel the loss; the horror of mass injustice that no amount of punishment suffered by the perpetrators can set right; above all the horror of staring evil straight in the face, seeing the monstrously corrupted souls that blithely, even happily, committed such crimes.

But it is not all horror. The circle is, perhaps surprisingly, brought whole again, in a mysterious way, by the sorrow of the camp commandant's daughter and the forgiveness by the victim.

All very powerful, but also a bit unreal — inevitably, I suppose, or it wouldn't be "Oprah." Unreal because over everything was spread an air of separation: that this evil is an absolute aberration, not part of the normal world we inhabit; that these things were done by a bizarre alien race called Nazis whose terrible deeds persist in memory, but only in memory.

I couldn't help wondering what the odds were of Oprah broadcasting a show like this one highlighting the 2001 murder of *Wall Street Journal* reporter Daniel Pearl, in the context of a penetrating look at the routine murders — morally indistinguishable from the worst committed by Hitler's Nazis — carried out blithely, even happily, sometimes ecstatically, by Islamic Nazis every day in a hundred places around the world.

Such a show would imply evil's common theme of defiance against the First Things and of their source, God: against life, in every murder, including Hitler's; against love in all hate, not just the Nazis'; against truth in every lie, beauty in every desecration, and good in every evil indulged. That "Oprah" episode would never make it past big media's censors for the doubt it would cast on the liberal myth — that man can be good with or without God — and the havoc it would wreak with the leftist lie that rebellion brings liberation, not death.

The defining truth of the First Things is that evil, like good and God, is near: that the line dividing good and evil runs through every soul, in every man, in every age, and that our fate, for good of ill, is our own to decide. This truth created the West: its freedom, its law, its order. It is the eternal, hated foe of every barbarian from howling Viking or Tartar horde to communist commissar to Nazi death camp commander to al Qaeda butcher. It fights, like the good it lives to extinguish, "in many guises, many names — but always me."

John Kurzweil is CPR's *editor.*

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